

Special Tax and Fee Regulations

Section 100

Complete Rule Making File

OAL Approval with Approved Special Tax and Fee Regulations

Index

1. *Form 400 and Proposed Special Tax and Fee Regulations*
2. *Statement of Explanation Regulation 3020*
3. *Statement of Explanation Regulation 3301*
4. *Statement of Explanation Regulation 4500, 4504, 4507, 4508, 4509, 4600, 4609, and 4700*
5. *Senate Bill No. 162*

Other Documents Relied upon

- A. *Chief Counsel Memo Dated 08/09/11*
- B. *Draft Minutes, 08/23/11*
- C. *Reporters Transcript, 08/23/11*

**State of California
Office of Administrative Law**

In re:

Board of Equalization

Regulatory Action:

Title 18, California Code of Regulations

Adopt sections:

Amend sections: 3020, 3301, 4500, 4504,
4507, 4508, 4509, 4600,
4609, 4700

Repeal sections:

**NOTICE OF APPROVAL OF CHANGES
WITHOUT REGULATORY EFFECT**

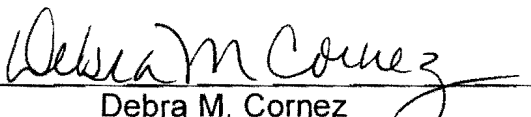
**California Code of Regulations, Title 1,
Section 100**

OAL File No. 2011-0831-01 N

Sections 3020 and 3301 of title 18 contain the name of the state agency that is involved with the subject matter tax or fee that the Board collects on behalf of that state agency. Due to recent legislation, the names of these two agencies were changed as follows: Department of Health Services was changed to California Department of Public Health to govern this particular subject matter; and duties and responsibilities of the Integrated Waste Management Board were transferred to the new Department of Resources Recycling and Recovery. Sections 4500 through 4700, noninclusive, replaced the name "Excise Taxes Division" with "Special Taxes and Fees Division" to reflect a reorganization within the Board's Property and Special Taxes Department. These changes without regulatory effect reflect statutory changes and internal reorganization of the Board.

OAL approves this change without regulatory effect as meeting the requirements of California Code of Regulations, Title 1, section 100.

Date: 10/10/2011


Debra M. Cornez
Assistant Chief Counsel/Acting Director

Original: Kristine Cazadd
Copy: Richard Bennion

RECEIVED
OCT 21 2011
Board Proceedings

OFFICE OF ADMINISTRATIVE LAW

300 Capitol Mall, Suite 1250
Sacramento, CA 95814
(916) 323-6225 FAX (916) 323-6826



DEBRA M. CORNEZ
Assistant Chief Counsel/Acting Director

MEMORANDUM

TO: Richard Bennion
FROM: OAL Front Desk
DATE: 10/11/2011
RE: Return of Approved Rulemaking Materials
OAL File No. 2011-0831-01N

OAL hereby returns this file your agency submitted for our review (OAL File No. 2011-0831-01N regarding Records).

If this is an approved file, it contains a copy of the regulation(s) stamped "ENDORSED APPROVED" by the Office of Administrative Law and "ENDORSED FILED" by the Secretary of State. The effective date of an approved file is specified on the Form 400 (see item B.5). (Please Note: The 30th Day after filing with the Secretary of State is calculated from the date the Form 400 was stamped "ENDORSED FILED" by the Secretary of State.)

DO NOT DISCARD OR DESTROY THIS FILE

Due to its legal significance, you are required by law to preserve this rulemaking record. Government Code section 11347.3(d) requires that this record be available to the public and to the courts for possible later review. Government Code section 11347.3(e) further provides that "...no item contained in the file shall be removed, altered, or destroyed or otherwise disposed of." See also the Records Management Act (Government Code section 14740 et seq.) and the State Administrative Manual (SAM) section 1600 et seq.) regarding retention of your records.

If you decide not to keep the rulemaking records at your agency/office or at the State Records Center, you may transmit it to the State Archives with instructions that the Secretary of State shall not remove, alter, or destroy or otherwise dispose of any item contained in the file. See Government Code section 11347.3(f).

Enclosures

Memorandum

To : Debra M. Cornez
Office of Administrative Law
300 Capitol Mall, Suite 1250
Sacramento, CA 95814

Date: October 10, 2011

From : Richard Bennion
Regulations Coordinator
Board Proceedings Division, MIC: 80

Subject : *OAL File No. 2011-0831-01N*
Regulation 3020, Records

The Office of Administrative Law (OAL) is authorized to make the following substitutions and corrections in connection with the above-referenced rulemaking file:

1. On the form 400, section B5, remove the check on box two, "Effective on filing with Secretary of State", and mark box three, "\$100 Changes Without Regulatory Effect."
2. Replace the text for regulation 4500 with the attached version of regulation 4500.

If you have any questions or comments, please notify me at (916) 445-2130 or email at Richard.Bennion@boe.ca.gov.

REB

NOTICE PUBLICATION REGULATION SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-09)

NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER 2011-0831-01N	EMERGENCY NUMBER
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For use by Office of Administrative Law (OAL) only

2011 AUG 31 AM 8:15

OFFICE OF
ADMINISTRATIVE LAW

NOTICE

REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY
State Board of Equalization

AGENCY FILE NUMBER (if any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER		PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Records	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
---	--

2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	ADOPT
	AMEND 3020, 3301, 4500, 4504, 4507, 4508, 4509, 4600, 4609, and 4700
	REPEAL
TITLE(S) 18	

3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §511346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input checked="" type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §511349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify) _____	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
<input type="checkbox"/> Effective 30th day after filing with Secretary of State	<input checked="" type="checkbox"/> Effective on filing with Secretary of State	<input checked="" type="checkbox"/> \$100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify) _____

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify) _____		

7. CONTACT PERSON Richard E. Bennion	TELEPHONE NUMBER (916) 445-2130	FAX NUMBER (Optional) (916) 324-3984	E-MAIL ADDRESS (Optional) rbennion@boe.ca.gov
---	------------------------------------	---	--

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Diane G. Olson</i>	DATE August 30, 2011
TYPED NAME AND TITLE OF SIGNATORY Diane G. Olson, Chief, Board Proceedings Division	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

OCT 10 2011

Office of Administrative Law

Text of Proposed Change to

Title 18. Public Revenue

Regulation 3020. Records.

(a) General. . . . (unchanged).

(b) Specific Applications. . . . (unchanged).

(1) Hazardous Substance Tax. . . . (unchanged):

(A) . . . (unchanged).

(B) . . . (unchanged).

(C) . . . (unchanged).

(D) . . . (unchanged).

(2) Environmental Fee. . . . (unchanged):

(A) . . . (unchanged).

(B) . . . (unchanged).

(3) Occupational Lead Poisoning Prevention Fee. A taxpayer shall keep complete records, including but not limited to:

(A) Fee waiver requests and ~~Department of Health Services~~California Department of Public Health responses.

(B) . . . (unchanged).

Note: Authority cited: Section 43501, Revenue and Taxation Code. Reference: Section 43502, Revenue and Taxation Code.

Text of Proposed Change to

Title 18. Public Revenue

Regulation 3301. Records.

(a) General. A fee payer shall maintain and make available for examination on request by the board or its authorized representatives, records in the manner set forth at California Code of Regulations, Title 18, Section 4901. Notwithstanding the record keeping requirements of the ~~Integrated Waste Management Board~~Department of Resources Recycling and Recovery set forth at California Code of Regulations, Title 14, Section 17414, for fee collection purpose the fee payer shall retain and preserve records for a period of not less than four years except as provided in Section 4901.

(b) Specific Applications. . . . (unchanged):

(1) . . . (unchanged).

(2) . . . (unchanged).

(3) . . . (unchanged).

Note: Authority cited: Section 45851, Revenue and Taxation Code. Reference: Section 45852, Revenue and Taxation Code.

Text of Proposed Change to

Title 18. Public Revenue

Regulation 4500. Definitions.

In addition to the definitions in Business and Professions Code section 22971, the following definitions shall apply to this chapter:

(a) . . . (unchanged).

(b) . . . (unchanged).

(c) . . . (unchanged).

(d) . . . (unchanged).

(e) . . . (unchanged).

(f) . . . (unchanged).

(g) . . . (unchanged).

(h) . . . (unchanged).

(i) “Control” or “controlling” means control or controlling as defined in Business and Professions Code section 22971, subdivision (~~p~~d).

(j) . . . (unchanged).

~~(k) “Excise Taxes Division staff” means an employee or employees of the State Board of Equalization assigned to the Excise Taxes Division of the Property and Special Taxes Department.~~

(~~k~~k) “Finding” or “Findings” means a determination that a violation of the Act has occurred. This can occur by default if no appeal is made from a Notice of Violation or Warning Notice, or by a final decision made pursuant to Regulations 4700, 4701, or 4702.

(~~m~~l) “Fine” means any fine imposed by the Board pursuant to the Act.

(~~n~~m) “Investigations Division staff” means an employee or employees of the State Board of Equalization assigned to the Investigations Division of the Legal Department.

(~~o~~n) “Licensee” means a licensee as defined in Business and Professions Code section 22971, subdivision (~~j~~k).

(po) "License subject to a civil or criminal citation" means a license as to which a citation has been issued but no final determination of violation has yet been entered into the licensee's or unlicensed person's permanent record.

(qp) "Notice of Violation" means the document sent to a licensee or unlicensed person referring to the citation issued, the charged violation(s), the penalty or penalties to be imposed, and the licensee's or unlicensed person's appeal rights.

(rq) "Offense" means a criminal conviction of violations of the Act and/or civil findings of violations of the Act.

(sr) "Person" means a person as defined in Revenue and Taxation Code section 30010.

(ts) "Regulation" means a section of title 18 of the California Code of Regulations.

(t) "Special Taxes and Fees Division" means the Special Taxes and Fees Division of the State Board of Equalization's Property and Special Taxes Department.

(u) . . . (unchanged).

(v) . . . (unchanged).

Note: Authority cited: Section 22971.2, Business and Professions Code. Reference: Sections 22970, 22971, 22974.5, 22978.7 and 22979.7, Business and Professions Code; and Section 30010, Revenue and Taxation Code.

Regulation 4504. Determination of Arm's Length Transaction.

The ~~Exercise Taxes Division~~ Special Taxes and Fees Division shall determine whether the transfer of a business was pursuant to an arm's length transaction, utilizing the criteria set forth in Regulations 4505 and 4506.

Note: Authority cited: Section 22971.2, Business and Professions Code. Reference: Sections 22973.1, 22977.2 and 22979, Business and Professions Code.

Regulation 4507. Request for Information and Records.

When a business's license is suspended, revoked, or is subject to civil or criminal citation, then the parties to a proposed or completed transfer or sale of the business must, at the Board's request, provide all relevant information on the transfer or sale to the ~~Exeise Taxes Division~~ Special Taxes and Fees Division, including, but not limited to, the purchase agreement, all escrow documents and proof of payment or tender of the purchase consideration.

Note: Authority cited: Section 22971.2, Business and Professions Code. Reference: Sections 22973.1, 22977.2 and 22979, Business and Professions Code.

Regulation 4508. Appeal - Denial of License.

(a) If the ~~Exeise Taxes Division~~ Special Taxes and Fees Division determines that a new license should not be issued pursuant to Regulation 4503, then it shall notify the applicant of such determination and deny the application for issuance of a new license for the applicant's business. The applicant may petition for a redetermination within 30 days from the date notice of the denial is mailed or personally delivered to the applicant. The denial of the application shall become final if a petition for redetermination is not filed before the expiration of the 30-day period.

(b) . . . (unchanged).

(c) The Board shall reconsider the determination of the ~~Exeise Taxes Division~~ Special Taxes and Fees Division pursuant to its administrative appeals process set forth in article 6 (commencing with Regulation 5260) of chapter 2 of division 2.1 of title 18 of the California Code of Regulations and shall grant the applicant an oral hearing if timely requested within 30 days of the date the Decision and Recommendation issued by the Appeals Division is mailed to the applicant. Any Board hearing will be governed by the rules set forth in Regulations 5270, 5271, 5522.4 through 5523.1, 5523.4 through 5523.7, 5541 through 5551, 5563, subdivisions (a) and (b), 5561 through 5563, 5571, 5572, and 5576.

(d) . . . (unchanged).

(e) . . . (unchanged).

Note: Authority cited: Section 22971.2, Business and Professions Code. Reference: Sections 22973.1, 22977.2 and 22979, Business and Professions Code.

Regulation 4509. Non-Arm's Length Transfer - Sales.

The ~~Excise Taxes Division~~Special Taxes and Fees Division's determination that a licensee's transfer of a business with a suspended or revoked license was not at arm's length may establish grounds for an additional violation of the Act. The Investigations Division may issue a citation for a violation of Business and Professions Code section 22980.2, subdivision (c), if the business is found selling cigarettes or tobacco products without a license or after a notification of suspension or revocation of a license.

Note: Authority cited: Section 22971.2, Business and Professions Code. Reference: Sections 22973.1, 22977.2, 22979 and 22980.2, Business and Professions Code.

Regulation 4600. Issuance and Contents of a Notice of Violation or Warning Notice.

The Investigations Division shall forward a copy of a citation issued to a licensee or unlicensed person to the ~~Excise Taxes Division~~Special Taxes and Fees Division, which shall prepare and mail a Notice of Violation or Warning Notice to the cited licensee or unlicensed person.

Note: Authority cited: Section 22971.2, Business and Professions Code. Reference: Sections 22974.7, 22978.7 and 22979.7, Business and Professions Code.

Regulation 4609. Right to Appeal.

(a) Every licensee or unlicensed person has the right to appeal any alleged violation of the Act, and may appeal a Warning Notice or Notice of Violation issued by the ~~Excise Taxes Division~~Special Taxes and Fees Division, as specified below:

(1) . . . (unchanged):

(A) The first appeal shall be to the ~~Excise Taxes Division~~Special Taxes and Fees Division;

(B) If the licensee or unlicensed person disagrees with the Notice of First Decision, as specified in Regulation 4700, subdivision (h), issued by the ~~Excise Taxes Division~~Special Taxes and Fees Division, the licensee or unlicensed person may make a second appeal to the Appeals Division; and

(C) . . . (unchanged).

(2) . . . (unchanged):

(A) The first appeal shall be to the ~~Excise Taxes Division~~Special Taxes and Fees Division; and

(B) If the licensee or unlicensed person disagrees with the Notice of First Decision issued by the ~~Excise Taxes Division~~Special Taxes and Fees Division, the licensee or unlicensed person may make a second appeal to the Appeals Division for a final decision.

(b) . . . (unchanged).

(c) . . . (unchanged).

Note: Authority cited: Section 22971.2, Business and Professions Code. Reference: Sections 22974.7, 22978.7 and 22979.7, Business and Professions Code.

Regulation 4700. Appeal - ~~Excise Taxes Division~~Special Taxes and Fees Division.

(a) Time For Filing. . . . (unchanged).

(b) Failure to File a Timely Appeal. . . . (unchanged).

(c) Request for an ~~Excise Taxes Division~~Special Taxes and Fees Division Appeal. The Request for Appeal shall state the specific grounds upon which the licensee or unlicensed person is contesting the Warning Notice or Notice of Violation and shall be accompanied by any and all documentation and written argument to be considered in support of the appeal. The Request for Appeal shall be signed by the licensee or unlicensed person or by an authorized representative.

(d) Notice of Conference. After receiving a timely Request for Appeal the ~~Excise Taxes Division~~Special Taxes and Fees Division will schedule a conference and send a Notice of Conference stating the date and time of the scheduled conference to the licensee or unlicensed person. The Notice of Conference shall be sent to the licensee or unlicensed person at least 15 days prior to the date of the scheduled conference.

(e) Conference. The conference is intended to be an informal, non-adversarial proceeding with a discussion of the relevant facts and applicable laws and regulations. Written statements made under penalty of perjury may be submitted, but subpoenas are not issued for conferences, nor is sworn testimony required. The conference will be conducted by telephone and shall not be recorded and/or transcribed by the ~~Excise Taxes Division~~Special Taxes and Fees Division. The conference may be recorded and/or transcribed by the licensee or unlicensed person, but only if the licensee or unlicensed person agrees to provide a copy of the recording or transcript to the ~~Excise Taxes Division~~Special Taxes and Fees Division.

(f) The ~~Excise Taxes Division~~Special Taxes and Fees Division may grant one request to reschedule or postpone a conference. If a request is granted, the conference shall be rescheduled or postponed so that it can be held within 15 days of the date the conference was scheduled to be held prior to the granting of the request, unless the Chief of the ~~Excise Taxes Division~~Special Taxes and Fees Division or his or her designee approves of a later date.

(g) During a conference, the ~~Excise Taxes Division~~Special Taxes and Fees Division may grant a request for additional time to submit additional evidence. If additional time is granted, the evidence shall be submitted to the ~~Excise Taxes Division~~Special Taxes and Fees Division no later than 7 days after the conference date.

(h) Decision. Following the conference, the ~~Excise Taxes Division~~Special Taxes and Fees Division shall issue a Notice of First Decision. The Notice of First Decision will set forth the ~~Excise Taxes Division~~Special Taxes and Fees Division's decision, the applicable penalty or penalties, and the licensee's or unlicensed person's appeal rights.

(i) . . . (unchanged).

(j) Failure to File a Timely Appeal. . . . (unchanged).

Note: Authority cited: Section 22971.2, Business and Professions Code. Reference: Sections 22974.7, 22978.7 and 22979.7, Business and Professions Code.

Written comments, along with any supporting documentation, may be transmitted via email addressed to mvela@oehha.ca.gov or to:

Ms. Monet Vela
Office of Environmental Health Hazard Assessment
Street Address: 1001 I Street, 23rd Floor
Sacramento, California 95812-4010
Mailing Address: P.O. Box 4010
Sacramento, California 95812-4010
Fax No.: (916) 323-2517
Telephone: (916) 323-2610

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

File# 2011-0831-01
BOARD OF EQUALIZATION
Records

Sections 3020 and 3301 of title 18 contain the name of the state agency that is involved with the subject matter tax or fee that the Board collects on behalf of that state agency. Due to recent legislation, the names of these two agencies were changed as follows: Department of Health Services was changed to California Department of Public Health to govern this particular subject matter; and duties and responsibilities of the Integrated Waste Management Board were transferred to the new Department of Resources Recycling and Recovery. Sections 4500 through 4700, noninclusive, replaced the name "Excise Taxes Division" with "Special Taxes and Fees Division" to reflect a reorganization within the Board's Property and Special Taxes Department. These changes without regulatory effect reflect statutory changes and internal reorganization of the Board.

Title 18
California Code of Regulations
AMEND: 3020, 3301, 4500, 4504, 4507, 4508, 4509, 4600, 4609, 4700
Filed 10/10/2011
Agency Contact:
Richard E. Bennion (916) 445-2130

File# 2011-0826-02
BOARD OF FORESTRY AND FIRE PROTECTION
Aspen, Meadow, and Wet Area Restoration, 2011

This regulatory action creates a new silvicultural "special prescription" that provides requirements for projects that harvest, remove or otherwise treat commercial conifer trees in aspen stands, meadows or wet areas for purposes of restoring habitat, ecological and range values. This will allow for a wider range of project designs.

Title 14
California Code of Regulations
AMEND: 913.4, 933.4, 953.4, 959.15
REPEAL: 939.15
Filed 10/05/2011
Effective 01/01/2012
Agency Contact: George Gentry (916) 653-8031

File# 2011-0830-08
CALIFORNIA BLUEBERRY COMMISSION
Conflict of Interest Code

This is a Conflict of Interest Code filing that has been approved by the Fair Political Practices Commission and is being submitted for filing with the Secretary of State and printing only.

Title 2
California Code of Regulations
AMEND: 59690
Filed 10/12/2011
Effective 11/11/2011
Agency Contact:
Ann M. Grottveit (916) 448-3826

File# 2011-0830-06
COURT REPORTERS BOARD OF CALIFORNIA
Schedule of Fees

The Court Reporters Board of California amended sections 2450 and 2451 of title 16 of the California Code of Regulations to make additions and revisions to the schedule of fees, including raising the initial and annual renewal certificate fee to \$125.

Title 16
California Code of Regulations
AMEND: 2450, 2451
Filed 10/10/2011
Effective 11/09/2011
Agency Contact: Yvonne Fenner (916) 263-4081

File# 2011-0830-07
DENTAL BOARD OF CALIFORNIA
Dental Assisting Educational Programs and Courses

This rulemaking action by the Dental Board of California (Board) combines elements of various outdated regulations and expired statutes with revised lan-

Special Tax and Fee Regulations

Section 100

Index

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5. *Senate Bill No. 162*

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-09)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER 2011-0831-01N	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE AGENCY WITH RULEMAKING AUTHORITY State Board of Equalization		REGULATIONS 2011 AUG 31 AM 8:10 OFFICE OF ADMINISTRATIVE LAW	
AGENCY FILE NUMBER (if any)			

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Records		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)	
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)			
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.) TITLE(S) 18		ADOPT AMEND 3020, 3301, 4500, 4504, 4507, 4508, 4509, 4600, 4609, and 4700 REPEAL	
3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §511349.3, 11349.4) <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))			
<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §511346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)			
<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify) _____			
<input checked="" type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only			
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)			
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
<input type="checkbox"/> Effective 30th day after filing with Secretary of State <input checked="" type="checkbox"/> Effective on filing with Secretary of State <input checked="" type="checkbox"/> §100 Changes Without Regulatory Effect <input type="checkbox"/> Effective other (Specify) _____			
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) <input type="checkbox"/> Fair Political Practices Commission <input type="checkbox"/> State Fire Marshal <input type="checkbox"/> Other (Specify) _____			
7. CONTACT PERSON Richard E. Bennion		TELEPHONE NUMBER (916) 445-2130	FAX NUMBER (Optional) (916) 324-3984 E-MAIL ADDRESS (Optional) rbennion@boe.ca.gov

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Diane G. Olson</i>	DATE August 30, 2011
TYPED NAME AND TITLE OF SIGNATORY Diane G. Olson, Chief, Board Proceedings Division	

For use by Office of Administrative Law (OAL) only

Text of Proposed Change to

Title 18. Public Revenue

Regulation 4500. Definitions.

In addition to the definitions in Business and Professions Code section 22971, the following definitions shall apply to this chapter:

(a) . . . (unchanged).

(b) . . . (unchanged).

(c) . . . (unchanged).

(d) . . . (unchanged).

(e) . . . (unchanged).

(f) . . . (unchanged).

(g) . . . (unchanged).

(h) . . . (unchanged).

(i) “Control” or “controlling” means control or controlling as defined in Business and Professions Code section 22971, subdivision (~~p~~d).

(j) . . . (unchanged).

~~(k) “Excise Taxes Division staff” means an employee or employees of the State Board of Equalization assigned to the Excise Taxes Division of the Property and Special Taxes Department.~~

(~~l~~k) “Finding” or “Findings” means a determination that a violation of the Act has occurred. This can occur by default if no appeal is made from a Notice of Violation or Warning Notice, or by a final decision made pursuant to Regulations 4700, 4701, or 4702.

(~~m~~l) “Fine” means any fine imposed by the Board pursuant to the Act.

(~~n~~m) “Investigations Division staff” means an employee or employees of the State Board of Equalization assigned to the Investigations Division of the Legal Department.

(~~o~~n) “Licensee” means a licensee as defined in Business and Professions Code section 22971, subdivision (~~j~~k).

(po) "License subject to a civil or criminal citation" means a license as to which a citation has been issued but no final determination of violation has yet been entered into the licensee's or unlicensed person's permanent record.

(qp) "Notice of Violation" means the document sent to a licensee or unlicensed person referring to the citation issued, the charged violation(s), the penalty or penalties to be imposed, and the licensee's or unlicensed person's appeal rights.

(rq) "Offense" means a criminal conviction of violations of the Act and/or civil findings of violations of the Act.

(sr) "Person" means a person as defined in Revenue and Taxation Code section 30010.

(ts) "Regulation" means a section of title 18 of the California Code of Regulations.

(t) "Special Taxes and Fees Division" means the Special Taxes and Fees Division of the State Board of Equalization's Property and Special Taxes Department.

(u) . . . (unchanged).

(v) . . . (unchanged).

Note: Authority cited: Section 22971.2, Business and Professions Code. Reference: Sections 22970, 22971, 22974.5, 22978.7 and 22979.7, Business and Professions Code; and Section 30010, Revenue and Taxation Code.

Regulation 4504. Determination of Arm's Length Transaction.

The ~~Excise Taxes Division~~Special Taxes and Fees Division shall determine whether the transfer of a business was pursuant to an arm's length transaction, utilizing the criteria set forth in Regulations 4505 and 4506.

Note: Authority cited: Section 22971.2, Business and Professions Code. Reference: Sections 22973.1, 22977.2 and 22979, Business and Professions Code.

Regulation 4507. Request for Information and Records.

When a business's license is suspended, revoked, or is subject to civil or criminal citation, then the parties to a proposed or completed transfer or sale of the business must, at the Board's request, provide all relevant information on the transfer or sale to the ~~Excise Taxes Division~~ Special Taxes and Fees Division, including, but not limited to, the purchase agreement, all escrow documents and proof of payment or tender of the purchase consideration.

Note: Authority cited: Section 22971.2, Business and Professions Code. Reference: Sections 22973.1, 22977.2 and 22979, Business and Professions Code.

Regulation 4508. Appeal - Denial of License.

(a) If the ~~Excise Taxes Division~~ Special Taxes and Fees Division determines that a new license should not be issued pursuant to Regulation 4503, then it shall notify the applicant of such determination and deny the application for issuance of a new license for the applicant's business. The applicant may petition for a redetermination within 30 days from the date notice of the denial is mailed or personally delivered to the applicant. The denial of the application shall become final if a petition for redetermination is not filed before the expiration of the 30-day period.

(b) . . . (unchanged).

(c) The Board shall reconsider the determination of the ~~Excise Taxes Division~~ Special Taxes and Fees Division pursuant to its administrative appeals process set forth in article 6 (commencing with Regulation 5260) of chapter 2 of division 2.1 of title 18 of the California Code of Regulations and shall grant the applicant an oral hearing if timely requested within 30 days of the date the Decision and Recommendation issued by the Appeals Division is mailed to the applicant. Any Board hearing will be governed by the rules set forth in Regulations 5270, 5271, 5522.4 through 5523.1, 5523.4 through 5523.7, 5541 through 5551, 5563, subdivisions (a) and (b), 5561 through 5563, 5571, 5572, and 5576.

(d) . . . (unchanged).

(e) . . . (unchanged).

Note: Authority cited: Section 22971.2, Business and Professions Code. Reference: Sections 22973.1, 22977.2 and 22979, Business and Professions Code.

Regulation 4509. Non-Arm's Length Transfer - Sales.

The ~~Excise Taxes Division~~Special Taxes and Fees Division's determination that a licensee's transfer of a business with a suspended or revoked license was not at arm's length may establish grounds for an additional violation of the Act. The Investigations Division may issue a citation for a violation of Business and Professions Code section 22980.2, subdivision (c), if the business is found selling cigarettes or tobacco products without a license or after a notification of suspension or revocation of a license.

Note: Authority cited: Section 22971.2, Business and Professions Code. Reference: Sections 22973.1, 22977.2, 22979 and 22980.2, Business and Professions Code.

Regulation 4600. Issuance and Contents of a Notice of Violation or Warning Notice.

The Investigations Division shall forward a copy of a citation issued to a licensee or unlicensed person to the ~~Excise Taxes Division~~Special Taxes and Fees Division, which shall prepare and mail a Notice of Violation or Warning Notice to the cited licensee or unlicensed person.

Note: Authority cited: Section 22971.2, Business and Professions Code. Reference: Sections 22974.7, 22978.7 and 22979.7, Business and Professions Code.

Regulation 4609. Right to Appeal.

(a) Every licensee or unlicensed person has the right to appeal any alleged violation of the Act, and may appeal a Warning Notice or Notice of Violation issued by the ~~Excise Taxes Division~~Special Taxes and Fees Division, as specified below:

(1) . . . (unchanged):

(A) The first appeal shall be to the ~~Excise Taxes Division~~Special Taxes and Fees Division;

(B) If the licensee or unlicensed person disagrees with the Notice of First Decision, as specified in Regulation 4700, subdivision (h), issued by the ~~Excise Taxes Division~~Special Taxes and Fees Division, the licensee or unlicensed person may make a second appeal to the Appeals Division; and

(C) . . . (unchanged).

(2) . . . (unchanged):

(A) The first appeal shall be to the ~~Excise Taxes Division~~Special Taxes and Fees Division; and

(B) If the licensee or unlicensed person disagrees with the Notice of First Decision issued by the ~~Excise Taxes Division~~Special Taxes and Fees Division, the licensee or unlicensed person may make a second appeal to the Appeals Division for a final decision.

(b) . . . (unchanged).

(c) . . . (unchanged).

Note: Authority cited: Section 22971.2, Business and Professions Code. Reference: Sections 22974.7, 22978.7 and 22979.7, Business and Professions Code.

Regulation 4700. Appeal - ~~Excise Taxes Division~~Special Taxes and Fees Division.

(a) Time For Filing. . . (unchanged).

(b) Failure to File a Timely Appeal. . . (unchanged).

(c) Request for an ~~Excise Taxes Division~~Special Taxes and Fees Division Appeal. The Request for Appeal shall state the specific grounds upon which the licensee or unlicensed person is contesting the Warning Notice or Notice of Violation and shall be accompanied by any and all documentation and written argument to be considered in support of the appeal. The Request for Appeal shall be signed by the licensee or unlicensed person or by an authorized representative.

(d) Notice of Conference. After receiving a timely Request for Appeal the ~~Excise Taxes Division~~Special Taxes and Fees Division will schedule a conference and send a Notice of Conference stating the date and time of the scheduled conference to the licensee or unlicensed person. The Notice of Conference shall be sent to the licensee or unlicensed person at least 15 days prior to the date of the scheduled conference.

(e) Conference. The conference is intended to be an informal, non-adversarial proceeding with a discussion of the relevant facts and applicable laws and regulations. Written statements made under penalty of perjury may be submitted, but subpoenas are not issued for conferences, nor is sworn testimony required. The conference will be conducted by telephone and shall not be recorded and/or transcribed by the ~~Excise Taxes Division~~Special Taxes and Fees Division. The conference may be recorded and/or transcribed by the licensee or unlicensed person, but only if the licensee or unlicensed person agrees to provide a copy of the recording or transcript to the ~~Excise Taxes Division~~Special Taxes and Fees Division.

(f) The ~~Excise Taxes Division~~Special Taxes and Fees Division may grant one request to reschedule or postpone a conference. If a request is granted, the conference shall be rescheduled or postponed so that it can be held within 15 days of the date the conference was scheduled to be held prior to the granting of the request, unless the Chief of the ~~Excise Taxes Division~~Special Taxes and Fees Division or his or her designee approves of a later date.

(g) During a conference, the ~~Excise Taxes Division~~Special Taxes and Fees Division may grant a request for additional time to submit additional evidence. If additional time is granted, the evidence shall be submitted to the ~~Excise Taxes Division~~Special Taxes and Fees Division no later than 7 days after the conference date.

(h) Decision. Following the conference, the ~~Excise Taxes Division~~Special Taxes and Fees Division shall issue a Notice of First Decision. The Notice of First Decision will set forth the ~~Excise Taxes Division~~Special Taxes and Fees Division's decision, the applicable penalty or penalties, and the licensee's or unlicensed person's appeal rights.

(i) . . . (unchanged).

(j) Failure to File a Timely Appeal. . . . (unchanged).

Note: Authority cited: Section 22971.2, Business and Professions Code. Reference: Sections 22974.7, 22978.7 and 22979.7, Business and Professions Code.

CHANGE WITHOUT REGULATORY EFFECT UNDER
CALIFORNIA CODE OF REGULATIONS, TITLE 1, SECTION 100

Statement of Explanation

Change to Title 18. Public Revenue

Regulation 3020, *Records*

A. Factual Basis

Chapter 8 of division 2 of title 18 of the California Code of Regulations (chapter 8) contains regulations that implement, interpret, and make specific provisions of the Hazardous Substances Tax Law (part 22 (commencing with section 43001) of division 2 of the Revenue and Taxation Code). California Code of Regulations, title 18, section (Regulation) 3020, *Records*, is contained in chapter 8 and generally specifies the types of records a taxpayer must maintain under the Hazardous Substances Tax Law.

Pursuant to Health and Safety Code section 105190, the State Board of Equalization (Board) administers a fee under the Hazardous Substances Tax Law that supports the occupational lead poisoning prevention program (Health and Safety Code section 105185 et seq.), and Regulation 3020, subdivision (b)(3)(A), requires taxpayers to maintain records of their correspondence with the agency responsible for managing the occupational lead poisoning prevention program. Effective July 1, 2007, the name of the agency responsible for managing the occupational lead poisoning prevention program was changed from the Department of Health Services to the California Department of Public Health. (See Health & Saf. Code, §§ 20 and 131051, subd. (a)(6)(S), as amended by § 8 and added by § 34, respectively, of Stats. 2006, ch. 241 (Sen. Bill No. 162).) Accordingly, the Board hereby proposes to replace the term “Department of Health Services” with the term “California Department of Public Health” in Regulation 3020, subdivision (b)(3)(A), under California Code of Regulations, title 1, section (Rule) 100.

The foregoing change is appropriate for processing under Rule 100 because it is a change without regulatory effect and does not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any California Code of Regulations provision. Furthermore, this change is necessary to reflect the 2007 renaming of the agency responsible for managing the occupational lead poisoning prevention program.

B. Proposed Change to Regulation 3020

Proposed Change to Regulation 3020:

Regulation 3020. Records.

(a) General. . . . (unchanged).

(b) Specific Applications. . . . (unchanged).

(1) Hazardous Substance Tax. . . . (unchanged):

(A) . . . (unchanged).

(B) . . . (unchanged).

(C) . . . (unchanged).

(D) . . . (unchanged).

(2) Environmental Fee. . . . (unchanged):

(A) . . . (unchanged).

(B) . . . (unchanged).

(3) Occupational Lead Poisoning Prevention Fee. A taxpayer shall keep complete records, including but not limited to:

(A) Fee waiver requests and ~~Department of Health Services~~ California Department of Public Health responses.

(B) . . . (unchanged).

Note: Authority cited: Section 43501, Revenue and Taxation Code. Reference: Section 43502, Revenue and Taxation Code.

CHANGE WITHOUT REGULATORY EFFECT UNDER
CALIFORNIA CODE OF REGULATIONS, TITLE 1, SECTION 100

Statement of Explanation

Change to Title 18. Public Revenue

Regulation 3301, *Records*

A. Factual Basis

Chapter 8.3 of division 2 of title 18 of the California Code of Regulations (chapter 8.3) contains regulations that implement, interpret, and make specific the Integrated Waste Management Fee Law (part 23 (commencing with section 45001) of division 2 of the Revenue and Taxation Code). California Code of Regulations, title 18, section (Regulation) 3301, *Records*, is contained in chapter 8.3 and generally specifies the records that the State Board of Equalization (Board) requires that a feepayer maintain with respect to the integrated waste management fee.

The Board deposits specified fees collected under the Integrated Waste Management Fee Law into the Integrated Waste Management Account and, after appropriation by the Legislature, the fees may be used to fund the integrated waste management program provided for in division 30 of the Public Resources Code. (Pub. Resources Code, §§ 48001 and 48004.) In 2009, the agency responsible for managing the integrated waste management program was reorganized and renamed. Its name was changed from the California Integrated Waste Management Board to the Department of Resources Recycling and Recovery. (See Pub. Resources Code, § 40400, added by Stats. 2009, ch. 21 (Sen. Bill No. 63), § 9, effective January 1, 2010.) Accordingly, the Board proposes to replace the term “Integrated Waste Management Board” with the term “Department of Resources Recycling and Recovery” in Regulation 3301, subdivision (a), under California Code of Regulations, title 1, section (Rule) 100.

The foregoing change is appropriate for processing under Rule 100 because it is a change without regulatory effect and does not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any California Code of Regulations provision. Furthermore, this change is necessary to update the name of the agency responsible for managing the integrated waste management program.

B. Proposed Change to Regulation 3301

Proposed change to Regulation 3301:

Regulation 3301. Records.

(a) General. A fee payer shall maintain and make available for examination on request by the board or its authorized representatives, records in the manner set forth at California Code of Regulations, Title 18, Section 4901. Notwithstanding the record keeping requirements of the ~~Integrated Waste Management Board~~Department of Resources Recycling and Recovery set forth at California Code of Regulations, Title 14, Section 17414, for fee collection purpose the fee payer shall retain and preserve records for a period of not less than four years except as provided in Section 4901.

(b) Specific Applications. . . . (unchanged):

(1) . . . (unchanged).

(2) . . . (unchanged).

(3) . . . (unchanged).

Note: Authority cited: Section 45851, Revenue and Taxation Code. Reference: Section 45852, Revenue and Taxation Code.

CHANGES WITHOUT REGULATORY EFFECT UNDER CALIFORNIA CODE OF REGULATIONS, TITLE 1, SECTION 100

Statement of Explanation

Changes to Title 18. Public Revenue

Regulation 4500, *Definitions*

Regulation 4504, *Determination of Arm's Length Transaction*

Regulation 4507, *Request for Information and Records*

Regulation 4508, *Appeal - Denial of License*

Regulation 4509, *Non-Arm's Length Transfer - Sales*

Regulation 4600, *Issuance and Contents of a Notice of Violation or Warning Notice*

Regulation 4609, *Right to Appeal*

Regulation 4700, *Appeal - Excise Taxes Division*

A. Factual Basis

California Code of Regulations, title 18, section (Regulation) 4500, *Definitions*, generally provides the definitions that apply to chapter 9.5 (commencing with Regulation 4500) of division 2 of title 18 of the California Code of Regulations, which prescribes the application of the Cigarette and Tobacco Products Licensing Act of 2003 (division 8.6 (commencing with section 22970) of the Business and Professions Code) (Licensing Act). Regulation 4500, subdivision (i), defines the term "control" or "controlling" by reference to Business and Professions Code (BPC) section 22971's definition for the same term. However, BPC section 22971, subdivision (p), defining the term "control" or "controlling," was recently renumbered as BPC section 22971, subdivision (d), by Statutes 2010, chapter 607 (Assem. Bill No. 2733), section 1. Accordingly, the State Board of Equalization (Board) proposes to change the definition for the term control in Regulation 4500, subdivision (i), under California Code of Regulations, title 1, section (Rule) 100, so that it now correctly provides that "'Control' or 'controlling' means control or controlling as defined in Business and Professions Code section 22971, subdivision (d)," instead of as defined in BPC section 22971, subdivision (p).

As a result of a department-wide reorganization of the Board's Property and Special Taxes Department on July 1, 2010, administration of the Licensing Act was assigned to a newly established Special Taxes and Fees Division, in place of the department's Excise Taxes Division. Therefore, the definition of "Excise Taxes Division staff" in Regulation 4500, subdivision (k), is no longer applicable to chapter 9.5. Furthermore, the Board determined that the term "Excise Taxes Division" is currently used throughout chapter 9.5, but the term "Excise Taxes Division staff" is not used in chapter 9.5. Accordingly, the Board proposes to delete subdivision (k) of Regulation 4500 defining "Excise Taxes Division staff," and add a new subdivision (t) to Regulation 4500 defining "Special Taxes and Fees Division," under Rule 100. The Board proposes to renumber subdivisions (l) through (t) of Regulation 4500 as subdivisions (k) through (s), respectively, under Rule 100. The Board also proposes to replace the term "Excise Taxes Division" with the term "Special Taxes and Fees Division" everywhere the term appears in chapter 9.5 (Regulations 4504, 4507, 4508, subds. (a) and (c), 4509, 4600, 4609, subds. (a), (a)(1)(A) and (B), and (a)(2)(A) and (B), and 4700, subds. (c) – (h), and title) and change the

word “an” to the word “a” in Regulation 4700, subdivision (c), to conform to the revised text, under Rule 100.

The foregoing changes are appropriate for processing under Rule 100 because they are changes without regulatory effect and do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any California Code of Regulations provision. Furthermore, these changes are necessary to provide a correct statutory reference and to reflect the July 1, 2010, reorganization of the Board’s Property and Special Taxes Department.

B. Proposed Changes to Regulations 4500, 4504, 4507, 4508, 4509, 4600, 4609, and 4700

Proposed Changes to Regulations 4500, 4504, 4507, 4508, 4509, 4600, 4609, and 4700:

Regulation 4500. Definitions.

In addition to the definitions in Business and Professions Code section 22971, the following definitions shall apply to this chapter:

(a) . . . (unchanged).

(b) . . . (unchanged).

(c) . . . (unchanged).

(d) . . . (unchanged).

(e) . . . (unchanged).

(f) . . . (unchanged).

(g) . . . (unchanged).

(h) . . . (unchanged).

(i) “Control” or “controlling” means control or controlling as defined in Business and Professions Code section 22971, subdivision (~~pd~~).

(j) . . . (unchanged).

~~(k) “Excise Taxes Division staff” means an employee or employees of the State Board of Equalization assigned to the Excise Taxes Division of the Property and Special Taxes Department.~~

~~(l)~~ (k) “Finding” or “Findings” means a determination that a violation of the Act has occurred. This can occur by default if no appeal is made from a Notice of Violation or Warning Notice, or by a final decision made pursuant to Regulations 4700, 4701, or 4702.

~~(m)~~ (n) “Fine” means any fine imposed by the Board pursuant to the Act.

(am) "Investigations Division staff" means an employee or employees of the State Board of Equalization assigned to the Investigations Division of the Legal Department.

(en) "Licensee" means a licensee as defined in Business and Professions Code section 22971, subdivision (j).

(po) "License subject to a civil or criminal citation" means a license as to which a citation has been issued but no final determination of violation has yet been entered into the licensee's or unlicensed person's permanent record.

(qp) "Notice of Violation" means the document sent to a licensee or unlicensed person referring to the citation issued, the charged violation(s), the penalty or penalties to be imposed, and the licensee's or unlicensed person's appeal rights.

(rq) "Offense" means a criminal conviction of violations of the Act and/or civil findings of violations of the Act.

(sr) "Person" means a person as defined in Revenue and Taxation Code section 30010.

(ts) "Regulation" means a section of title 18 of the California Code of Regulations.

(t) "Special Taxes and Fees Division" means the Special Taxes and Fees Division of the State Board of Equalization's Property and Special Taxes Department.

(u) . . . (unchanged).

(v) . . . (unchanged).

Note: Authority cited: Section 22971.2, Business and Professions Code. Reference: Sections 22970, 22971, 22974.5, 22978.7 and 22979.7, Business and Professions Code; and Section 30010, Revenue and Taxation Code.

Regulation 4504. Determination of Arm's Length Transaction.

The ~~Excise Taxes Division~~ Special Taxes and Fees Division shall determine whether the transfer of a business was pursuant to an arm's length transaction, utilizing the criteria set forth in Regulations 4505 and 4506.

Note: Authority cited: Section 22971.2, Business and Professions Code. Reference: Sections 22973.1, 22977.2 and 22979, Business and Professions Code.

Regulation 4507. Request for Information and Records.

When a business's license is suspended, revoked, or is subject to civil or criminal citation, then the parties to a proposed or completed transfer or sale of the business must, at the Board's request, provide all relevant information on the transfer or sale to the ~~Excise Taxes Division~~ Special Taxes and Fees Division, including, but not limited to, the purchase agreement, all escrow documents and proof of payment or tender of the purchase consideration.

Note: Authority cited: Section 22971.2, Business and Professions Code. Reference: Sections 22973.1, 22977.2 and 22979, Business and Professions Code.

Regulation 4508. Appeal - Denial of License.

(a) If the ~~Excise Taxes Division~~Special Taxes and Fees Division determines that a new license should not be issued pursuant to Regulation 4503, then it shall notify the applicant of such determination and deny the application for issuance of a new license for the applicant's business. The applicant may petition for a redetermination within 30 days from the date notice of the denial is mailed or personally delivered to the applicant. The denial of the application shall become final if a petition for redetermination is not filed before the expiration of the 30-day period.

(b) . . . (unchanged).

(c) The Board shall reconsider the determination of the ~~Excise Taxes Division~~Special Taxes and Fees Division pursuant to its administrative appeals process set forth in article 6 (commencing with Regulation 5260) of chapter 2 of division 2.1 of title 18 of the California Code of Regulations and shall grant the applicant an oral hearing if timely requested within 30 days of the date the Decision and Recommendation issued by the Appeals Division is mailed to the applicant. Any Board hearing will be governed by the rules set forth in Regulations 5270, 5271, 5522.4 through 5523.1, 5523.4 through 5523.7, 5541 through 5551, 5563, subdivisions (a) and (b), 5561 through 5563, 5571, 5572, and 5576.

(d) . . . (unchanged).

(e) . . . (unchanged).

Note: Authority cited: Section 22971.2, Business and Professions Code. Reference: Sections 22973.1, 22977.2 and 22979, Business and Professions Code.

Regulation 4509. Non-Arm's Length Transfer - Sales.

The ~~Excise Taxes Division~~Special Taxes and Fees Division's determination that a licensee's transfer of a business with a suspended or revoked license was not at arm's length may establish grounds for an additional violation of the Act. The Investigations Division may issue a citation for a violation of Business and Professions Code section 22980.2, subdivision (c), if the business is found selling cigarettes or tobacco products without a license or after a notification of suspension or revocation of a license.

Note: Authority cited: Section 22971.2, Business and Professions Code. Reference: Sections 22973.1, 22977.2, 22979 and 22980.2, Business and Professions Code.

Regulation 4600. Issuance and Contents of a Notice of Violation or Warning Notice.

The Investigations Division shall forward a copy of a citation issued to a licensee or unlicensed person to the ~~Excise Taxes Division~~Special Taxes and Fees Division, which shall prepare and mail a Notice of Violation or Warning Notice to the cited licensee or unlicensed person.

Note: Authority cited: Section 22971.2, Business and Professions Code. Reference: Sections 22974.7, 22978.7 and 22979.7, Business and Professions Code.

Regulation 4609. Right to Appeal.

(a) Every licensee or unlicensed person has the right to appeal any alleged violation of the Act, and may appeal a Warning Notice or Notice of Violation issued by the ~~Excise Taxes Division~~Special Taxes and Fees Division, as specified below:

(1) . . . (unchanged):

(A) The first appeal shall be to the ~~Excise Taxes Division~~Special Taxes and Fees Division;

(B) If the licensee or unlicensed person disagrees with the Notice of First Decision, as specified in Regulation 4700, subdivision (h), issued by the ~~Excise Taxes Division~~Special Taxes and Fees Division, the licensee or unlicensed person may make a second appeal to the Appeals Division; and

(C) . . . (unchanged).

(2) . . . (unchanged):

(A) The first appeal shall be to the ~~Excise Taxes Division~~Special Taxes and Fees Division; and

(B) If the licensee or unlicensed person disagrees with the Notice of First Decision issued by the ~~Excise Taxes Division~~Special Taxes and Fees Division, the licensee or unlicensed person may make a second appeal to the Appeals Division for a final decision.

(b) . . . (unchanged).

(c) . . . (unchanged).

Note: Authority cited: Section 22971.2, Business and Professions Code. Reference: Sections 22974.7, 22978.7 and 22979.7, Business and Professions Code.

Regulation 4700. Appeal - ~~Excise Taxes Division~~Special Taxes and Fees Division.

(a) Time For Filing. . . . (unchanged).

(b) Failure to File a Timely Appeal. . . . (unchanged).

(c) Request for an ~~Excise Taxes Division~~Special Taxes and Fees Division Appeal. The Request for Appeal shall state the specific grounds upon which the licensee or unlicensed person is contesting the Warning Notice or Notice of Violation and shall be accompanied by any and all documentation and written argument to be considered in support of the appeal. The Request for Appeal shall be signed by the licensee or unlicensed person or by an authorized representative.

(d) Notice of Conference. After receiving a timely Request for Appeal the ~~Exeise Taxes Division~~Special Taxes and Fees Division will schedule a conference and send a Notice of Conference stating the date and time of the scheduled conference to the licensee or unlicensed person. The Notice of Conference shall be sent to the licensee or unlicensed person at least 15 days prior to the date of the scheduled conference.

(e) Conference. The conference is intended to be an informal, non-adversarial proceeding with a discussion of the relevant facts and applicable laws and regulations. Written statements made under penalty of perjury may be submitted, but subpoenas are not issued for conferences, nor is sworn testimony required. The conference will be conducted by telephone and shall not be recorded and/or transcribed by the ~~Exeise Taxes Division~~Special Taxes and Fees Division. The conference may be recorded and/or transcribed by the licensee or unlicensed person, but only if the licensee or unlicensed person agrees to provide a copy of the recording or transcript to the ~~Exeise Taxes Division~~Special Taxes and Fees Division.

(f) The ~~Exeise Taxes Division~~Special Taxes and Fees Division may grant one request to reschedule or postpone a conference. If a request is granted, the conference shall be rescheduled or postponed so that it can be held within 15 days of the date the conference was scheduled to be held prior to the granting of the request, unless the Chief of the ~~Exeise Taxes Division~~Special Taxes and Fees Division or his or her designee approves of a later date.

(g) During a conference, the ~~Exeise Taxes Division~~Special Taxes and Fees Division may grant a request for additional time to submit additional evidence. If additional time is granted, the evidence shall be submitted to the ~~Exeise Taxes Division~~Special Taxes and Fees Division no later than 7 days after the conference date.

(h) Decision. Following the conference, the ~~Exeise Taxes Division~~Special Taxes and Fees Division shall issue a Notice of First Decision. The Notice of First Decision will set forth the ~~Exeise Taxes Division~~Special Taxes and Fees Division's decision, the applicable penalty or penalties, and the licensee's or unlicensed person's appeal rights.

(i) . . . (unchanged).

(j) Failure to File a Timely Appeal. . . . (unchanged).

Note: Authority cited: Section 22971.2, Business and Professions Code. Reference: Sections 22974.7, 22978.7 and 22979.7, Business and Professions Code.

Text of Proposed Change to

Title 18. Public Revenue

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In addition to the definitions in Business and Professions Code section 22971, the following definitions shall apply to this chapter:

(a) . . . (unchanged).

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(c) . . . (unchanged).

(d) . . . (unchanged).

(e) . . . (unchanged).

(f) . . . (unchanged).

(g) . . . (unchanged).

(h) . . . (unchanged).

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(j) . . . (unchanged).

~~(k) “Excise Taxes Division staff” means an employee or employees of the State Board of Equalization assigned to the Excise Taxes Division of the Property and Special Taxes Department.~~

(lk) “Finding” or “Findings” means a determination that a violation of the Act has occurred. This can occur by default if no appeal is made from a Notice of Violation or Warning Notice, or by a final decision made pursuant to Regulations 4700, 4701, or 4702.

(ml) “Fine” means any fine imposed by the Board pursuant to the Act.

(nm) “Investigations Division staff” means an employee or employees of the State Board of Equalization assigned to the Investigations Division of the Legal Department.

(on) “Licensee” means a licensee as defined in Business and Professions Code section 22971, subdivision (jk).

(p~~o~~) "License subject to a civil or criminal citation" means a license as to which a citation has been issued but no final determination of violation has yet been entered into the licensee's or unlicensed person's permanent record.

(q~~p~~) "Notice of Violation" means the document sent to a licensee or unlicensed person referring to the citation issued, the charged violation(s), the penalty or penalties to be imposed, and the licensee's or unlicensed person's appeal rights.

(r~~q~~) "Offense" means a criminal conviction of violations of the Act and/or civil findings of violations of the Act.

(s~~r~~) "Person" means a person as defined in Revenue and Taxation Code section 30010.

(t~~s~~) "Regulation" means a section of title 18 of the California Code of Regulations.

(t) "Special Taxes and Fees Division" means the Special Taxes and Fees Division of the State Board of Equalization's Property and Special Taxes Department.

(u) . . . (unchanged).

(v) . . . (unchanged).

Note: Authority cited: Section 22971.2, Business and Professions Code. Reference: Sections 22970, 22971, 22974.5, 22978.7 and 22979.7, Business and Professions Code; and Section 30010, Revenue and Taxation Code.

Regulation 4504. Determination of Arm's Length Transaction.

The ~~Excise Taxes Division~~Special Taxes and Fees Division shall determine whether the transfer of a business was pursuant to an arm's length transaction, utilizing the criteria set forth in Regulations 4505 and 4506.

Note: Authority cited: Section 22971.2, Business and Professions Code. Reference: Sections 22973.1, 22977.2 and 22979, Business and Professions Code.

Regulation 4507. Request for Information and Records.

When a business's license is suspended, revoked, or is subject to civil or criminal citation, then the parties to a proposed or completed transfer or sale of the business must, at the Board's request, provide all relevant information on the transfer or sale to the ~~Excise Taxes Division~~ Special Taxes and Fees Division, including, but not limited to, the purchase agreement, all escrow documents and proof of payment or tender of the purchase consideration.

Note: Authority cited: Section 22971.2, Business and Professions Code. Reference: Sections 22973.1, 22977.2 and 22979, Business and Professions Code.

Regulation 4508. Appeal - Denial of License.

(a) If the ~~Excise Taxes Division~~ Special Taxes and Fees Division determines that a new license should not be issued pursuant to Regulation 4503, then it shall notify the applicant of such determination and deny the application for issuance of a new license for the applicant's business. The applicant may petition for a redetermination within 30 days from the date notice of the denial is mailed or personally delivered to the applicant. The denial of the application shall become final if a petition for redetermination is not filed before the expiration of the 30-day period.

(b) . . . (unchanged).

(c) The Board shall reconsider the determination of the ~~Excise Taxes Division~~ Special Taxes and Fees Division pursuant to its administrative appeals process set forth in article 6 (commencing with Regulation 5260) of chapter 2 of division 2.1 of title 18 of the California Code of Regulations and shall grant the applicant an oral hearing if timely requested within 30 days of the date the Decision and Recommendation issued by the Appeals Division is mailed to the applicant. Any Board hearing will be governed by the rules set forth in Regulations 5270, 5271, 5522.4 through 5523.1, 5523.4 through 5523.7, 5541 through 5551, 5563, subdivisions (a) and (b), 5561 through 5563, 5571, 5572, and 5576.

(d) . . . (unchanged).

(e) . . . (unchanged).

Note: Authority cited: Section 22971.2, Business and Professions Code. Reference: Sections 22973.1, 22977.2 and 22979, Business and Professions Code.

Regulation 4509. Non-Arm's Length Transfer - Sales.

The ~~Excise Taxes Division~~Special Taxes and Fees Division's determination that a licensee's transfer of a business with a suspended or revoked license was not at arm's length may establish grounds for an additional violation of the Act. The Investigations Division may issue a citation for a violation of Business and Professions Code section 22980.2, subdivision (c), if the business is found selling cigarettes or tobacco products without a license or after a notification of suspension or revocation of a license.

Note: Authority cited: Section 22971.2, Business and Professions Code. Reference: Sections 22973.1, 22977.2, 22979 and 22980.2, Business and Professions Code.

Regulation 4600. Issuance and Contents of a Notice of Violation or Warning Notice.

The Investigations Division shall forward a copy of a citation issued to a licensee or unlicensed person to the ~~Excise Taxes Division~~Special Taxes and Fees Division, which shall prepare and mail a Notice of Violation or Warning Notice to the cited licensee or unlicensed person.

Note: Authority cited: Section 22971.2, Business and Professions Code. Reference: Sections 22974.7, 22978.7 and 22979.7, Business and Professions Code.

Regulation 4609. Right to Appeal.

(a) Every licensee or unlicensed person has the right to appeal any alleged violation of the Act, and may appeal a Warning Notice or Notice of Violation issued by the ~~Excise Taxes Division~~Special Taxes and Fees Division, as specified below:

(1) . . . (unchanged):

(A) The first appeal shall be to the ~~Excise Taxes Division~~Special Taxes and Fees Division;

(B) If the licensee or unlicensed person disagrees with the Notice of First Decision, as specified in Regulation 4700, subdivision (h), issued by the ~~Excise Taxes Division~~Special Taxes and Fees Division, the licensee or unlicensed person may make a second appeal to the Appeals Division; and

(C) . . . (unchanged).

(2) . . . (unchanged):

(A) The first appeal shall be to the ~~Excise Taxes Division~~Special Taxes and Fees Division; and

(B) If the licensee or unlicensed person disagrees with the Notice of First Decision issued by the ~~Excise Taxes Division~~Special Taxes and Fees Division, the licensee or unlicensed person may make a second appeal to the Appeals Division for a final decision.

(b) . . . (unchanged).

(c) . . . (unchanged).

Note: Authority cited: Section 22971.2, Business and Professions Code. Reference: Sections 22974.7, 22978.7 and 22979.7, Business and Professions Code.

Regulation 4700. Appeal - ~~Excise Taxes Division~~Special Taxes and Fees Division.

(a) Time For Filing. . . . (unchanged).

(b) Failure to File a Timely Appeal. . . . (unchanged).

(c) Request for an ~~Excise Taxes Division~~Special Taxes and Fees Division Appeal. The Request for Appeal shall state the specific grounds upon which the licensee or unlicensed person is contesting the Warning Notice or Notice of Violation and shall be accompanied by any and all documentation and written argument to be considered in support of the appeal. The Request for Appeal shall be signed by the licensee or unlicensed person or by an authorized representative.

(d) Notice of Conference. After receiving a timely Request for Appeal the ~~Excise Taxes Division~~Special Taxes and Fees Division will schedule a conference and send a Notice of Conference stating the date and time of the scheduled conference to the licensee or unlicensed person. The Notice of Conference shall be sent to the licensee or unlicensed person at least 15 days prior to the date of the scheduled conference.

(e) Conference. The conference is intended to be an informal, non-adversarial proceeding with a discussion of the relevant facts and applicable laws and regulations. Written statements made under penalty of perjury may be submitted, but subpoenas are not issued for conferences, nor is sworn testimony required. The conference will be conducted by telephone and shall not be recorded and/or transcribed by the ~~Excise Taxes Division~~Special Taxes and Fees Division. The conference may be recorded and/or transcribed by the licensee or unlicensed person, but only if the licensee or unlicensed person agrees to provide a copy of the recording or transcript to the ~~Excise Taxes Division~~Special Taxes and Fees Division.

(f) The ~~Excise Taxes Division~~Special Taxes and Fees Division may grant one request to reschedule or postpone a conference. If a request is granted, the conference shall be rescheduled or postponed so that it can be held within 15 days of the date the conference was scheduled to be held prior to the granting of the request, unless the Chief of the ~~Excise Taxes Division~~Special Taxes and Fees Division or his or her designee approves of a later date.

(g) During a conference, the ~~Excise Taxes Division~~Special Taxes and Fees Division may grant a request for additional time to submit additional evidence. If additional time is granted, the evidence shall be submitted to the ~~Excise Taxes Division~~Special Taxes and Fees Division no later than 7 days after the conference date.

(h) Decision. Following the conference, the ~~Excise Taxes Division~~Special Taxes and Fees Division shall issue a Notice of First Decision. The Notice of First Decision will set forth the ~~Excise Taxes Division~~Special Taxes and Fees Division's decision, the applicable penalty or penalties, and the licensee's or unlicensed person's appeal rights.

(i) . . . (unchanged).

(j) Failure to File a Timely Appeal. . . . (unchanged).

Note: Authority cited: Section 22971.2, Business and Professions Code. Reference: Sections 22974.7, 22978.7 and 22979.7, Business and Professions Code.

Senate Bill No. 162

CHAPTER 241

An act to amend Sections 6253.4, 6254.18, 8169.5, and 12803 of, and to add Section 11554.5 to, the Government Code, and to amend Sections 20, 21, 135, 136, 137, 138, 138.4, 151, 152, 100100, 100105, 100170, 109277, and 109282 of, to amend and renumber Sections 100106, 100119, 100175, 100180, 100182, 100185, 100190, 100195, 100200, 100205, 100210, 100215, 100225, 100230, and 100235 of, to add Division 112 (commencing with Section 131000) to, to add and repeal Chapter 3 (commencing with Section 131230) of Division 112 of, and to repeal Section 100117 of, the Health and Safety Code, relating to health.

[Approved by Governor September 14, 2006. Filed with
Secretary of State September 14, 2006.]

LEGISLATIVE COUNSEL'S DIGEST

SB 162, Ortiz. State Department of Public Health.

Existing law establishes the scope of functions and responsibilities of the State Department of Health Services.

This bill would enact the California Public Health Act of 2006, which would establish the State Department of Public Health, to be headed by the State Public Health Officer to be appointed by the Governor, subject to confirmation by the Senate and would rename the State Department of Health Services as the State Department of Health Care Services. The bill would transfer the responsibility for certain programs from the State Department of Health Services to the State Department of Public Health, and would require the State Public Health Officer to convene the Public Health Advisory Committee. The bill would retain responsibility for the remaining programs within the renamed State Department of Health Care Services, and would make conforming changes.

These provisions would become operative July 1, 2007.

The bill would establish the Office of Change Management within the State Department of Health Services to provide planning and guidance for transition activities prior to July 1, 2007.

The people of the State of California do enact as follows:

SECTION 1. (a) This act shall be known and may be cited as the California Public Health Act of 2006.

(b) (1) It is the intent of the Legislature, in enacting this act, to establish the State Department of Public Health and rename the State

Department of Health Services as the State Department of Health Care Services.

(2) By enacting this act establishing the State Department of Public Health, it is the intent of the Legislature to do all of the following:

(A) Transfer all public health programs currently operated through the existing State Department of Health Services to the State Department of Public Health, without regard to whether or not that public health program has been formally created by statute.

(B) Require that the health purchasing programs continue to be operated by the State Department of Health Care Services, the new name of the former State Department of Health Services.

(C) Authorize the Governor to make final decisions about the placement of specific programs and offices that are not formally created by statute or named in this act in a way that is consistent with the intent of the Legislature in establishing the State Department of Public Health and with the overall spirit of this act.

(D) Elevate the visibility and importance of public health issues in the policy arena.

(E) Increase accountability and require program effectiveness for the public health and health care purchasing functions of state government.

(F) Promote the health status of Californians through programs and policies that use populationwide interventions.

(G) Recruit and retain top quality public health professionals including physicians, nurses, and scientists, who have the requisite education, and experience to protect the public health and safety.

(c) For purposes of this section, "public health programs" refers primarily to programs and functions that seek to prevent illness in, and promote the health of, the public at large, in contrast with health care services programs, which relate to either the direct delivery of health care services to eligible individuals, or relate to payment for those services.

SEC. 2. Section 6253.4 of the Government Code is amended to read:

6253.4. (a) Every agency may adopt regulations stating the procedures to be followed when making its records available in accordance with this section.

The following state and local bodies shall establish written guidelines for accessibility of records. A copy of these guidelines shall be posted in a conspicuous public place at the offices of these bodies, and a copy of the guidelines shall be available upon request free of charge to any person requesting that body's records:

Department of Motor Vehicles
Department of Consumer Affairs
Department of Transportation
Department of Real Estate
Department of Corrections
Department of the Youth Authority
Department of Justice
Department of Insurance

(1) “Contractor” means an individual or entity that contracts with a reproductive health services facility for services related to patient care.

(2) “Personal information” means the following information related to an individual that is maintained by a public agency: social security number, physical description, home address, home telephone number, statements of personal worth or personal financial data filed pursuant to subdivision (n) of Section 6254, personal medical history, employment history, electronic mail address, and information that reveals any electronic network location or identity.

(3) “Public agency” means all of the following:

- (A) The State Department of Health Care Services.
- (B) The Department of Consumer Affairs.
- (C) The Department of Managed Health Care.
- (D) The State Department of Public Health.

(4) “Reproductive health services facility” means the office of a licensed physician and surgeon whose specialty is family practice, obstetrics, or gynecology, or a licensed clinic, where at least 50 percent of the patients of the physician or the clinic are provided with family planning or abortion services.

(c) Any person may institute proceedings for injunctive or declarative relief or writ of mandate in any court of competent jurisdiction to obtain access to employment history information pursuant to Sections 6258 and 6259. If the court finds, based on the facts of a particular case, that the public interest served by disclosure of employment history information clearly outweighs the public interest served by not disclosing the information, the court shall order the officer or person charged with withholding the information to disclose employment history information or show cause why he or she should not do so pursuant to Section 6259.

(d) In order for this section to apply to an individual who is an employee, volunteer, board member, officer, or contractor of a reproductive health services facility, the individual shall notify the public agency to which his or her personal information is being submitted or has been submitted that he or she falls within the application of this section. The reproductive health services facility shall retain a copy of all notifications submitted pursuant to this section. This notification shall be valid if it complies with all of the following:

(1) Is on the official letterhead of the facility.

(2) Is clearly separate from any other language present on the same page and is executed by a signature that serves no other purpose than to execute the notification.

(3) Is signed and dated by both of the following:

- (A) The individual whose information is being submitted.
- (B) The executive officer or his or her designee of the reproductive health services facility.

(e) The privacy protections for personal information authorized pursuant to this section shall be effective from the time of notification pursuant to subdivision (d) until either one of the following occurs:

(1) Six months after the date of separation from a reproductive health services facility for an individual who has served for not more than one year as an employee, contractor, volunteer, board member, or officer of the reproductive health services facility.

(2) One year after the date of separation from a reproductive health services facility for an individual who has served for more than one year as an employee, contractor, volunteer, board member, or officer of the reproductive health services facility.

(f) Within 90 days of separation of an employee, contractor, volunteer, board member, or officer of the reproductive health services facility who has provided notice to a public agency pursuant to subdivision (c), the facility shall provide notice of the separation to the relevant agency or agencies.

(g) Nothing in this section shall prevent the disclosure by a government agency of data regarding age, race, ethnicity, national origin, or gender of individuals whose personal information is protected pursuant to this section, so long as the data contains no individually identifiable information.

SEC. 4. Section 8169.5 of the Government Code is amended to read:

8169.5. (a) In furtherance of the Capitol Area Plan, the objectives of Resolution Chapter 131 of the Statutes of 1991, and the legislative findings and declarations contained in Chapter 193 of the Statutes of 1996, relative to the findings by the Urban Land Institute, the director may purchase, exchange, or otherwise acquire real property and construct facilities, including any improvements, betterments, and related facilities, within the jurisdiction of the Capitol Area Plan in the City of Sacramento pursuant to this section. The total authorized scope of the project shall consist of up to approximately 1,470,200 gross square feet of office space and approximately 742,625 gross square feet of parking structures for use by the State Department of Education, the State Department of Health Care Services, the State Department of Public Health, and the Department of General Services as anchor tenants on blocks 171, 172, 173, 174, and 225, along with related additional parking on block 224, within the Capitol area. The acquisition and construction authorized pursuant to this section may not cause the displacement of any state or legislative employee parking spaces in the blocks specified in this subdivision unless the Department of General Services makes available existing state-owned parking spaces, acquires parking spaces, or constructs replacement parking that results in the affected employees' parking spaces being located at a reasonable distance from their place of employment.

(b) Subject to paragraphs (2) and (3) of subdivision (c), the department may contract for the lease, lease-purchase, lease with an option to purchase, acquisition, design, design-build, construction, construction management, and other services related to the design and construction of the office and parking facilities authorized to be acquired pursuant to subdivision (a).

(c) (1) The State Public Works Board may issue revenue bonds, negotiable notes, or negotiable bond anticipation notes pursuant to Chapter 5 (commencing with Section 15830) of Part 10b of Division 3 to finance all costs associated with acquisition, design, and construction of office and parking facilities for the purposes of this section. The State Public Works Board and the department may borrow funds for project costs from the Pooled Money Investment Account pursuant to Sections 16312 and 16313. In the event the bonds authorized by the project are not sold, the State Department of Education, the State Department of Health Care Services, the State Department of Public Health, and the Department of General Services, as determined by the Department of Finance, shall commit a sufficient amount of their support appropriations to repay any loans made for the project from the Pooled Money Investment Account. It is the intent of the Legislature that this commitment shall be included in future Budget Acts until all outstanding loans from the Pooled Money Investment Account are repaid either through the proceeds from the sale of bonds or from an appropriation.

(2) (A) If the department proposes to acquire the facilities on a design-build basis, prior to the department entering into an agreement pursuant to subdivision (b) to design and build the facilities on blocks 171, 172, 173, 174, and 225, as specified in subdivision (a), the department shall submit to the Legislature a copy of all documents that shall be the basis upon which bids will be solicited and awarded to design and build the facilities. The documents shall include the following:

- (i) The request for qualifications.
- (ii) Site development guidelines.
- (iii) Architectural and all system design requirements for the facilities.
- (iv) Notwithstanding any other provision of law, the recommended specific criteria and process by which the contractor shall be selected.
- (v) The performance criteria and standards for the architecture and all components and systems of the facilities.

(B) The information in the documents shall be provided in at least as much detail as was prepared for the San Francisco Civic Center Complex project and shall cover the quality of materials, equipment, and workmanship to be used in the facilities. These documents shall also include a detailed and specific space program for the facilities that identifies the specific spatial needs of the state agencies.

(C) If the department proceeds to acquire the facilities on a design-build basis, in addition to any other requirements imposed pursuant to this section, notwithstanding Section 7550.5, the department shall provide the Legislature, beginning on July 1, 1999, and every three months thereafter until the facilities are completed, with a status report that includes information regarding any benefits that the state may have realized from use of the design-build approach, any problems that have been encountered from the use of a design-build approach, and lessons learned that may be applied to a future project. The department shall issue a final report when the facilities are completed.

(D) If the department proposes to contract for construction separate from design, the department shall, prior to commencing work on working drawings for the facilities on blocks 171, 172, 173, 174, and 225, submit to the Legislature a copy of the preliminary plans for the facilities and a detailed and specific space program for the facilities that identifies the specific spatial needs of the state agencies.

(E) Regardless of how the department proposes to acquire the facilities, the department also shall submit all of the following information, which may be included in the bid documents:

(i) A final estimated cost for design, construction, and other costs.

(ii) How the department would manage the contracts entered into for this project to ensure compliance with contract requirements and to ensure that the state receives the highest level of quality workmanship and materials for the funds spent on the project.

(3) Except for the reports specified in subparagraph (C) of paragraph (2), the department shall submit to the Legislature the information required to be submitted pursuant to paragraphs (2) and (6) on or before December 1, 1998. Except for those contracts and agreements necessary to prepare the information required by paragraphs (2) and (6), the department shall not solicit bids to enter into any agreement to design and build or otherwise acquire the facilities or commence work on working drawings on block 171, 172, 173, 174, or 225 sooner than the later of April 1, 1999, or 120 days after the department submits to the Legislature the information required to be submitted pursuant to paragraphs (2) and (6). The Legislative Analyst shall evaluate the information submitted to the Legislature and shall prepare a report to the Joint Committee on Rules within 60 days of receiving the documents submitted to the Legislature. It is the intent of the Legislature that the Joint Committee on Rules meet prior to the date the department is authorized to solicit bids to design and build or otherwise acquire the facilities or commence work on working drawings for the purposes of discussing the report from the Legislative Analyst and adopting a report with any recommendations to the department on changes to the site design criteria, performance criteria, and specifications and specific criteria for determining the winning bidder. If the Joint Committee on Rules adopts a report prior to the date the department is authorized to solicit bids to design and build or otherwise acquire the facilities or commence work on working drawings, the department may solicit the bids or commence the work when the report is adopted by the Joint Committee on Rules. The Senate Committee on Rules and the Speaker of the Assembly may designate members of their respective houses to monitor the progress of the preparation of the documents to be submitted pursuant to paragraph (2). The department shall prepare periodic progress reports and meet with the designated members or their representatives, as necessary, while preparing the documents.

(4) The amount of revenue bonds, negotiable notes, or negotiable bond anticipation notes to be sold may equal, but shall not exceed, the cost of planning, preliminary plans, working drawings, construction, construction

management and supervision, other costs relating to the design and construction of the facilities, and any additional sums necessary to pay interim and permanent financing costs. The additional amount may include interest and a reasonable required reserve fund.

(5) Authorized costs of the facilities for preliminary plans, working drawings, construction, and other costs shall not exceed three hundred ninety-two million dollars (\$392,000,000). Notwithstanding Section 13332.11, the State Public Works Board may authorize the augmentation of the amount authorized under this paragraph by up to 10 percent of the amount authorized.

(6) The net present value of the cost to acquire and operate the facilities authorized by subdivision (a) may not exceed the net present value of the cost to lease and operate an equivalent amount of comparable office space over the same time period. The department shall perform this analysis and shall obtain interest rates, discount rates, and Consumer Price Index figures from the Treasurer and submit its analysis with the documents submitted pursuant to paragraph (2) of subdivision (c). For purposes of this analysis, the department shall compare the cost of acquiring and operating the proposed facilities with the avoided cost of leasing and operating an equivalent amount of comparable office space that will no longer need to be leased because either (A) agencies will no longer occupy currently leased facilities when they occupy the proposed facilities, or (B) agencies will no longer occupy currently leased facilities when they occupy state-owned space being vacated by state agencies occupying the proposed facilities. The analysis shall also include the cost of any unique improvement associated with the moving of an agency into any state-owned space that would be vacated by agencies moving into the proposed facilities. However, these costs shall not include the cost of renovating or modernizing vacated state-owned space that is necessary to accommodate state agencies in general purpose office space. This paragraph shall not be construed as authorizing any renovation of state-owned space.

(d) The director may execute and deliver a contract with the State Public Works Board for the lease of the facilities described in this section that are financed with the proceeds of the board's bonds, notes, or bond anticipation notes issued in accordance with this section.

SEC. 5. Section 11554.5 is added to the Government Code, to read:

11554.5. Effective July 1, 2007, an annual salary of two hundred twenty-two thousand dollars (\$222,000) shall be paid to the State Public Health Officer. The annual compensation provided by this section shall be increased in any fiscal year in which a general salary increase is provided for state employees. The amount of the increase provided by this section shall be comparable to, but shall not exceed, the percentage of the general salary increases provided for state employees during that fiscal year.

SEC. 6. Section 12803 of the Government Code is amended to read:

12803. (a) The California Health and Human Services Agency consists of the following departments: Health Care Services; Mental

Health; Developmental Services; Public Health; Social Services; Alcohol and Drug Abuse; Aging; Rehabilitation; and Community Services and Development.

(b) The agency also includes the Office of Statewide Health Planning and Development and the State Council on Developmental Disabilities.

(c) The Department of Child Support Services is hereby created within the agency commencing January 1, 2000, and shall be the single organizational unit designated as the state's Title IV-D agency with the responsibility for administering the state plan and providing services relating to the establishment of paternity or the establishment, modification, or enforcement of child support obligations as required by Section 654 of Title 42 of the United States Code. State plan functions shall be performed by other agencies as required by law, by delegation of the department, or by cooperative agreements.

SEC. 8. Section 20 of the Health and Safety Code is amended to read:

20. "State department" or "department" means State Department of Health Services. Commencing July 1, 2007, any reference to the former State Department of Health Services regarding a function vested by Chapter 2 (commencing with Section 131050) of Part 1 of Division 112, in the State Department of Public Health is deemed to, instead, refer to the State Department of Public Health, and any reference to the former State Department of Health Services regarding a function not vested by Chapter 2 (commencing with Section 131050) of Part 1 of Division 112, in the State Department of Public Health, is deemed to, instead, refer to the State Department of Health Care Services.

SEC. 9. Section 21 of the Health and Safety Code is amended to read:

21. "Director" means "State Director of Health Services." Commencing July 1, 2007, any reference to the former State Director of Health Services regarding a function vested by Chapter 2 (commencing with Section 131050) of Part 1 of Division 112, in the State Department of Public Health is deemed to, instead, refer to the State Public Health Officer.

SEC. 10. Section 135 of the Health and Safety Code is amended to read:

135. The Office of Women's Health is hereby established within the State Department of Health Care Services. For purposes of this chapter, "office" means the Office of Women's Health.

SEC. 11. Section 136 of the Health and Safety Code is amended to read:

136. (a) The California Health and Human Services Agency shall establish an interagency task force on women's health composed of representatives of the State Department of Health Care Services, the State Department of Public Health, the State Department of Developmental Services, the State Department of Social Services, the State Department of Alcohol and Drug Programs, and the Major Risk Medical Insurance Program.

(b) The State Department of Education, the Department of Housing and Community Development, the office of the Attorney General, the State Department of Mental Health, and the Department of Corrections may participate with the interagency task force on women's health when necessary to implement the state strategy developed pursuant to Section 137.

SEC. 11.4. Section 137 of the Health and Safety Code is amended to read:

137. (a) The office shall develop a coordinated state strategy for addressing the health related needs of women.

(b) The approved programmatic costs of the office shall be shared equally by the State Department of Health Care Services and the State Department of Public Health unless otherwise provided by law.

(c) The office shall report to the Director of Health Care Services.

SEC. 11.6. Section 138 of the Health and Safety Code is amended to read:

138. The office may do any of the following on behalf of the State Department of Health Care Services and the State Department of Public Health jointly or separately:

(a) Perform strategic planning within these state departments to develop departmentwide plans for implementation of goals and objectives for women's health.

(b) Conduct policy analysis on specific issues related to women's health.

(c) Coordinate pilot projects and planning projects funded by the state that are related to women's health.

(d) Identify unnecessary duplication of services and future service needs.

(e) Communicate and disseminate information and perform a liaison function within these state departments and to providers of health, social, educational, and support services to women.

(f) Perform internal staff training for these state departments, and training of health care professionals to ensure more linguistically and culturally appropriate care.

(g) Serve as a clearinghouse for information regarding women's health data, strategies, and programs that address women's health issues, including pregnancy, breast and cervical cancers, AIDS, osteoporosis, and menopause, as well as issues that impact women's health, including substance abuse, domestic violence, housing, teenage pregnancy, and sexual assault.

(h) Encourage innovative responses by public and private entities that are attempting to address women's health issues.

(i) Provide technical assistance to counties, other public entities, and private entities seeking to obtain funds for initiatives in women's health, including identification of sources of funding and assistance with writing of grants.

SEC. 12. Section 138.4 of the Health and Safety Code is amended to read:

138.4. (a) The State Department of Health Care Services and the State Department of Public Health shall place priority on providing information to consumers, patients, and health care providers regarding women's gynecological cancers, including, signs and symptoms, risk factors, the benefits of early detection through appropriate diagnostic testing, and treatment options.

(b) The information may include, but is not limited to, the following elements:

(1) Educational and informational materials in print, audio, video, electronic, or other media.

(2) Public service announcements and advertisements.

(c) (1) Each department may produce or contract with others to develop the materials described in this section as the director of each department deems appropriate, or may survey available publications from, among other sources, the National Cancer Institute and the American Cancer Society, and may collect and formulate a distribution plan and disseminate these publications according to the plan. These materials may be made available to the public free of charge and may include distribution through the Medical Board of California, as well as through other sources according to the distribution plan.

(2) Each department may require, as it deems appropriate, health care providers to make these materials available to patients.

(d) In exercising the powers under this section, each department shall consult with appropriate health care professionals and providers, consumers, and patients, or organizations representing them.

(e) Each department may appoint a Women's Gynecological Cancer Information Advisory Council which may include representation from health care professionals and providers, consumers, patients, and other appropriate interests. Members of each council shall receive no compensation for their services, but shall be allowed their actual and necessary expenses incurred in the performance of their duties.

(f) Each department's duties pursuant to this section are contingent upon that department receiving funds appropriated for this purpose.

(g) Each department may adopt any regulations necessary and appropriate for that department's implementation of this section.

SEC. 12.4. Section 151 of the Health and Safety Code is amended to read:

151. (a) The Office of Multicultural Health is hereby established within the State Department of Public Health. The approved programmatic costs of the Office of Multicultural Health shall be shared equally by the State Department of Health Care Services and the State Department of Public Health unless otherwise provided by law. The Office of Multicultural Health shall report to the State Public Health Officer.

(b) For purposes of this chapter:

(1) “Department” means the State Department of Health Care Services and the State Department of Public Health unless the context provides otherwise.

(2) “Office” means the Office of Multicultural Health.

SEC. 12.6. Section 152 of the Health and Safety Code is amended to read:

152. (a) The office shall do all of the following on behalf of the State Department of Health Care Services and the State Department of Public Health:

(1) Perform strategic planning within these departments to develop departmentwide plans for implementation of goals and objectives to close the gaps in health status and access to care among the state’s diverse racial and ethnic communities.

(2) Conduct departmental policy analysis on specific issues related to multicultural health.

(3) Coordinate pilot projects and planning projects funded by the state that are related to improving the effectiveness of services to ethnic and racial communities.

(4) Identify the unnecessary duplication of services and future service needs.

(5) Communicate and disseminate information and perform a liaison function within the departments and to providers of health, social, educational, and support services to racial and ethnic communities. The office shall consult regularly with representatives from diverse racial and ethnic communities, including health providers, advocates, and consumers.

(6) Perform internal staff training, an internal assessment of cultural competency, and training of health care professionals to ensure more linguistically and culturally competent care.

(7) Serve as a resource for ensuring that programs keep data and information regarding ethnic and racial health statistics, strategies and programs that address multicultural health issues, including, but not limited to, infant mortality, cancer, cardiovascular disease, diabetes, human immunodeficiency virus (HIV), acquired immune deficiency syndrome (AIDS), child and adult immunization, asthma, unintentional and intentional injury, and obesity, as well as issues that impact the health of racial and ethnic communities, including substance abuse, mental health, housing, teenage pregnancy, environmental disparities, immigrant and migrant health, and health insurance and delivery systems.

(8) Encourage innovative responses by public and private entities that are attempting to address multicultural health issues.

(9) Provide technical assistance to counties, other public entities, and private entities seeking to obtain funds for initiatives in multicultural health, including identification of funding sources and assistance with writing grants.

(b) Notwithstanding Section 7550.5 of the Government Code, the office shall biennially prepare and submit a report to the Legislature on the status of the activities required by this chapter.

SEC. 13. Section 100100 of the Health and Safety Code is amended to read:

100100. There is in the state government in the California Health and Human Services Agency, a State Department of Health Services which, effective July 1, 2007, is hereby renamed the State Department of Health Care Services. Commencing July 1, 2007, any reference in this chapter, in Chapter 1.5 (commencing with Section 100145), or in Article 1 (commencing with Section 100150) of Chapter 2 to the State Department of Health Services is deemed to, instead, refer to the State Department of Health Care Services with regard to functions not transferred to the State Department of Public Health. Commencing July 1, 2007, all the duties, powers, purposes, responsibilities, and jurisdiction of the former State Department of Health Services not vested in the State Department of Public Health pursuant to Chapter 2 (commencing with Section 131050) of Part 1 of Division 112, shall be retained by, and thereafter be performed by, the renamed State Department of Health Care Services.

SEC. 14. Section 100105 of the Health and Safety Code is amended to read:

100105. The department is under the control of an executive officer known as the Director of Health Services, who shall be appointed by the Governor, subject to confirmation by the Senate, and hold office at the pleasure of the Governor. The director shall receive the annual salary provided by Article 1 (commencing with Section 11550) of Chapter 6 of Part 1 of Division 3 of Title 2 of the Government Code. Commencing July 1, 2007, the Director of Health Services shall, thereafter, be known as the Director of Health Care Services.

Upon recommendation of the director, the Governor may appoint not to exceed two chief deputies of the department who shall hold office at the pleasure of the Governor. The salaries of the chief deputies shall be fixed in accordance with law.

SEC. 15. Section 100106 of the Health and Safety Code is amended and renumbered to read:

120155. Pursuant to Section 11158 of the Government Code, the sheriff of each county, or city and county, may enforce within the county, or the city and county, all orders of the State Department of Public Health issued for the purpose of preventing the spread of any contagious, infectious, or communicable disease. Every peace officer of every political subdivision of the county, or city and county, may enforce within the area subject to his or her jurisdiction all orders of the State Department of Public Health issued for the purpose of preventing the spread of any contagious, infectious, or communicable disease. This section is not a limitation on the authority of peace officers or public officers to enforce orders of the State Department of Public Health. When deciding whether to request this assistance in enforcement of its orders, the State Department of Public Health may consider whether it would be necessary to advise the enforcement agency of any measures that should be taken to prevent infection of the enforcement officers.

SEC. 16. Section 100117 of the Health and Safety Code is repealed.

SEC. 17. Section 100119 of the Health and Safety Code is amended and renumbered to read:

131019. There is in the State Department of Public Health an Office of AIDS. The State Department of Public Health, Office of AIDS, shall be the lead agency within the state, responsible for coordinating state programs, services, and activities relating to the human immunodeficiency virus (HIV), acquired immune deficiency syndrome (AIDS), and AIDS related conditions (ARC). Among its responsibilities, the State Department of Public Health, Office of AIDS, shall coordinate Sections 120875, Section 120880, Chapter 2 (commencing with Section 120800), Chapter 4 (commencing with Section 120900), Chapter 6 (commencing with Section 120950), Chapter 8 (commencing with Section 121025), Chapter 9 (commencing with Section 121050), Chapter 10 (commencing with Section 121075), Chapter 11 (commencing with Section 121150), Chapter 12 (commencing with Section 121200), Chapter 13 (commencing with Section 121250), and Chapter 14 (commencing with Section 121300), of Part 4 of Division 105. Any reference in those provisions to the State Department of Health Services or the State Department of Public Health shall be deemed to be a reference to the Office of AIDS within the State Department of Public Health.

SEC. 18. Section 100170 of the Health and Safety Code is amended to read:

100170. (a) The department may commence and maintain all proper and necessary actions and proceedings for any or all of the following purposes:

(1) To enforce its regulations.

(2) To compel the performance of any act specifically enjoined upon any person, officer, or board, by any law of this state relating to its powers and duties.

(b) It may defend all actions and proceedings involving its powers and duties.

(c) In all actions and proceedings it shall sue and be sued under the name of the department.

SEC. 19. Section 100175 of the Health and Safety Code is amended and renumbered to read:

131075. The department may enjoin and abate public nuisances.

SEC. 20. Section 100180 of the Health and Safety Code is amended and renumbered to read:

131080. The department may advise all local health authorities, and, when in its judgment the public health is menaced, it shall control and regulate their action.

SEC. 21. Section 100182 of the Health and Safety Code is amended and renumbered to read:

131082. Every person charged with the performance of any duty under the laws of this state relating to the preservation of the public health, who

willfully neglects or refuses to perform the same, is guilty of a misdemeanor.

SEC. 22. Section 100185 of the Health and Safety Code is amended and renumbered to read:

131085. (a) The department may perform any of the following activities relating to the protection, preservation, and advancement of public health:

- (1) Studies.
- (2) Demonstrations of innovative methods.
- (3) Evaluations of existing projects.
- (4) Provision of training programs.
- (5) Dissemination of information.

(b) In performing an activity specified in subdivision (a), the department may do any of the following:

- (1) Perform the activity directly.
- (2) Enter into contracts, cooperative agreements, or other agreements for the performance of the activity.
- (3) Apply for and receive grants for the performance of the activity.
- (4) Award grants for the performance of the activity.

SEC. 23. Section 100190 of the Health and Safety Code is amended and renumbered to read:

131090. The department may provide for consultant and advisory services and for the training of technical and professional personnel in educational institutions and field training centers approved by the department, and for the establishment and maintenance of field training centers in local health departments and in the department.

SEC. 24. Section 100195 of the Health and Safety Code is amended and renumbered to read:

131095. The department shall cause special investigation of the preparation and sale of drugs and food and their adulteration.

SEC. 25. Section 100200 of the Health and Safety Code is amended and renumbered to read:

131100. The department shall perform duties as required by law for the detection and prevention of the adulteration of articles used for food and drink, and for the punishment of persons guilty of violation of any law providing against their adulteration.

SEC. 26. Section 100205 of the Health and Safety Code is amended and renumbered to read:

131105. The department shall examine and may prevent the pollution of sources of public domestic water and ice supply.

SEC. 27. Section 100210 of the Health and Safety Code is amended and renumbered to read:

131110. The department shall maintain a program of Drinking Water and Environmental Management.

SEC. 28. Section 100215 of the Health and Safety Code is amended and renumbered to read:

131115. The department may maintain a mental health service that shall advise and assist local departments of health and education in the establishment of mental health services, particularly in connection with maternal and child health conferences and in the schools of the state.

The department may conduct these activities as may be required in the development of mental health services as related to public health.

This section does not authorize any form of compulsory medical or physical examination, treatment, or control of any person.

SEC. 29. Section 100225 of the Health and Safety Code is amended and renumbered to read:

131125. The department shall enforce Section 383b of the Penal Code.

SEC. 30. Section 100230 of the Health and Safety Code is amended and renumbered to read:

131130. (a) Any person who willfully sells, keeps for sale, or offers for sale any food, drug, device, or cosmetic knowing, after a written notice from either (1) a manufacturer, wholesaler, distributor, or importer, or (2) the department or a local health officer that the product linked to an outbreak of illness, injury, or product tampering is being ordered removed from sale by the department pursuant to Section 131080, shall, upon conviction, be punished by a fine of not less than two thousand dollars (\$2,000) nor more than ten thousand dollars (\$10,000) for each day of violation, or by imprisonment in the county jail for not more than one year, or by both a fine and imprisonment.

(b) If a second or subsequent violation is committed after a previous conviction under this section has become final, the person shall be punished by a fine of not less than five thousand dollars (\$5,000) nor more than twenty-five thousand dollars (\$25,000) for each day of violation, or by imprisonment in the state prison, or by both a fine and imprisonment.

(c) Notwithstanding any other provision of law, the court may suspend the minimum fines provided for in this section if it determines that there are circumstances in mitigation and the court states on the record its reasons for suspending the minimum fine.

SEC. 31. Section 100235 of the Health and Safety Code is amended and renumbered to read:

131135. Whenever any person violates any provision of Section 131130, the court may, as a condition of probation, order the defendant to pay, in lieu of any fine, any expenses, both direct and indirect, incurred by a local health department or the department in monitoring compliance with the order pursuant to Section 131080, including, but not limited to, the costs of conducting inspections and imposing embargoes. The total costs payable to the department and local health departments collectively imposed pursuant to this section shall not exceed the maximum fine for the offense of which the defendant is convicted.

Any amount collected under this section shall be paid to the local health department incurring the expenses or, if to reimburse costs of the department, into the General Fund.

SEC. 32. Section 109277 of the Health and Safety Code is amended to read:

109277. (a) Every person or entity who owns or operates a health facility or a clinic, or who is licensed as a physician and surgeon and rents or owns the premises where his or her practice is located, shall cause a sign or notice to be posted where a physician and surgeon performs breast cancer screening or biopsy as an outpatient service, or in a reasonably proximate area to where breast cancer screening or biopsy is performed. A sign or notice posted at the patient registration area of the health facility, clinic, or physician and surgeon's office shall constitute compliance with this section.

(b) The sign or notice shall read as follows:

"BE INFORMED"

"If you are a patient being treated for any form of breast cancer, or prior to performance of a biopsy for breast cancer, your physician and surgeon is required to provide you a written summary of alternative efficacious methods of treatment, pursuant to Section 109275 of the California Health and Safety Code."

"The information about methods of treatment was developed by the State Department of Public Health to inform patients of the advantages, disadvantages, risks, and descriptions of procedures."

(c) The sign shall be not less than eight and one-half inches by 11 inches and shall be conspicuously displayed so as to be readable. The words "BE INFORMED" shall not be less than one-half inch in height and shall be centered on a single line with no other text. The message on the sign shall appear in English, Spanish, and Chinese.

SEC. 33. Section 109282 of the Health and Safety Code is amended to read:

109282. (a) Every person or entity who owns or operates a health facility or a clinic, or who is licensed as a physician and surgeon and rents or owns the premises where his or her practice is located, shall cause a sign or notice to be posted where prostate cancer screening or treatment is performed by any physician and surgeon, or in a reasonably proximate area to where prostate cancer screening or treatment is performed. A sign or notice posted at the patient registration area of the health facility, clinic, or physician and surgeon's office shall constitute compliance with this section.

(b) The sign or notice shall read as follows:

"BE INFORMED"

“If you are a patient being treated for any form of prostate cancer, or prior to performance of a biopsy for prostate cancer, your physician and surgeon is urged to provide you a written summary of alternative efficacious methods of treatment, pursuant to Section 109280 of the California Health and Safety Code.”

“The information about methods of treatment was developed by the State Department of Public Health to inform patients of the advantages, disadvantages, risks, and descriptions of procedures.”

(c) The sign shall be not less than eight and one-half inches by 11 inches and shall be conspicuously displayed so as to be readable. The words “BE INFORMED” shall not be less than one-half inch in height and shall be centered on a single line with no other text. The message on the sign shall appear in English, Spanish, and Chinese.

(d) Subject to future, regular production and replacement schedules from the implementation of the act adding this subdivision, these signs and notices shall include the Internet Web site address of the State Department of Public Health and the Medical Board of California, and a notice regarding the availability of updated prostate cancer summaries on these Web sites.

SEC. 34. Division 112 (commencing with Section 131000) is added to Part 1 of Chapter 1 of the Health and Safety Code, to read:

DIVISION 112. PUBLIC HEALTH

PART 1. GENERAL PROVISIONS

CHAPTER 1. ORGANIZATION OF THE STATE DEPARTMENT OF PUBLIC HEALTH

131000. There is in the California Health and Human Services Agency a State Department of Public Health.

131005. (a) There is in state government an executive officer known as the State Public Health Officer, who shall be appointed by the Governor, subject to confirmation by the Senate, and hold office at the pleasure of the Governor. The State Public Health Officer shall receive the annual salary provided by Article 1 (commencing with Section 11550) of Chapter 6 of Part 1 of Division 3 of Title 2 of the Government Code.

(b) The State Public Health Officer shall serve as the director of, and have control over, the State Department of Public Health.

(c) Any statutory reference to “director,” “the Director of Health Services,” “the Director of Public Health,” or the “Director of the State Department of Public Health,” regarding a function transferred to the State Department of Public Health pursuant to Chapter 2 (commencing with Section 131050), is deemed to, instead, refer to the State Public Health Officer.

(d) Any statutory reference to “department” or “state department” regarding a function transferred to the State Department of Public Health pursuant to Chapter 2 (commencing with Section 131050), shall refer to the State Department of Public Health.

(e) The director shall be a licensed physician and surgeon pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, who has demonstrated medical, public health, and management experience.

131006. Upon recommendation of the director, the Governor may appoint, not to exceed, two chief deputies of the State Department of Public Health who shall hold office at the pleasure of the Governor. The salaries of the chief deputies shall be fixed in accordance with law.

131010. The director shall have the powers of a head of the department pursuant to Chapter 2 (commencing with Section 11150) of Part 1 of Division 3 of Title 2 of the Government Code.

131020. All officers or employees of the department employed after July 1, 2007, shall be appointed by the director.

CHAPTER 2. GENERAL POWERS OF THE DEPARTMENT

Article 1. General Provisions

131050. (a) As set forth in this article, the State Department of Public Health shall succeed to and be vested with all the duties, powers, purposes, functions, responsibilities, and jurisdiction of the former State Department of Health Services as they relate to public health, licensing and certification of health facilities, and any other functions performed immediately preceding the operative date of this section by, or under the supervision of, all of the following:

(1) The Deputy Director for Prevention Services of the former State Department of Health Services, excluding the Office of Clinical Preventive Medicine.

(2) The Deputy Director for Licensing and Certification.

(3) The Deputy Director for Health Information and Strategic Planning.

(4) The Deputy Director for Public Health Emergency Preparedness.

(5) The California Conference of Local Health Officers.

(6) The Deputy Director for Primary Care and Family Health as follows: Maternal, Child and Adolescent Health as set forth in Part 2 excluding Articles 5, 5.5, 6, and 6.5 of Chapter 3, Part 3, Part 5 excluding Articles 1 and 2 of Chapter 2, Part 7 and Part 8, of Division 106.

(b) It is the intent of the Legislature that, in implementing this article, the duties, powers, purposes, and responsibilities transferred to the State Department of Public Health shall include those formerly performed by the programs of the former State Department of Health Services set forth in this article, provided, however, that nothing in this article shall be construed to require that the State Department of Public Health be

organized according to programs described in this article, or to limit the authority or discretion of the State Public Health Officer pursuant to Section 11152 of the Government Code to organize the State Department of Public Health, unless that organization is otherwise required by law. Nothing in this article shall be construed to require that the State Department of Public Health maintain, or refrain from terminating, any program described in this article except to the extent that maintenance of the program is otherwise required by law. Nothing in this article shall be construed to limit or expand the authority of any program described in this article.

131051. The duties, powers, functions, jurisdiction, and responsibilities transferred to the State Department of Public Health shall, pursuant to the act that added this section, include all of the following previously performed by the former State Department of Health Services:

(a) Under the jurisdiction of the Deputy Director for Prevention Services:

(1) The Office of AIDS, including but not limited to:

(A) The AIDS Drug Assistance Program (Chapter 6 (commencing with Section 120950) of Part 4 of Division 105).

(B) The AIDS Early Intervention Program (Chapter 4 (commencing with Section 120900) of Part 4 of Division 105).

(C) The CARE Services Program, provided for pursuant to the federal Ryan White CARE Act, 42 U.S.C. Section 300ff.

(D) The CARE/Health Insurance Premium Payment Program (federal Ryan White CARE Act, 42 U.S.C. Sec. 300ff).

(E) The Housing Opportunities for Persons with AIDS Program (Section 100119).

(F) The Residential AIDS Licensed Facilities Program (former Section 100119; Chapter 2 (commencing with Section 120815) of Part 4 of Division 105).

(G) The AIDS Case Management Program (federal Ryan White CARE Act, 42 U.S.C. Sec. 300ff; Chapter 2 (commencing with Section 120815) of Part 4 of Division 105).

(H) The AIDS Medi-Cal Waiver Program (former Section 100119; 42 U.S.C. Sec. 1396n(c)).

(I) The Bridge Project (former Section 100119).

(J) The HIV Therapeutic Monitoring Program (Chapter 16 (commencing with Section 121345) of Part 4 of Division 105).

(K) The Learning Immune Function Enhancement program (former Section 100119).

(L) The San Ysidro Prevention Project (Section 113019).

(M) The California Statewide Treatment Education Program (former Section 100119).

(N) The HIV Counseling and Testing Program (Section 113019).

(O) The Neighborhood Intervention Geared Toward High-Risk Testing program (former Section 100119).

(P) The Perinatal Transmission Prevention Project (Section 113019).

- (Q) The California AIDS Clearinghouse (Section 113019).
- (R) The California Disclosure Assistance and Partner Services/Partner Counseling and Referral Services (Section 113019).
- (S) The African-American HIV Initiative (Section 113019; Chapter 13.7 (commencing with Section 120290) of Part 4 of Division 105).
- (T) The Injection Drug User HIV Testing Utilizing Hepatitis C Testing High-Risk Initiative (Section 113019).
- (U) The Prevention with Positives High-Risk Initiative (Section 113019).
- (V) The Statewide Technical Assistance Initiatives (Section 113019).
- (W) The HIV/AIDS Case Registry (Sections 113019, 120125, and 120130).
- (2) The Office of Binational Border Health, including, but not limited to, all of the following:
 - (A) The California-Mexico Health Initiative (Part 3 (commencing with Section 475) of Division 1).
 - (B) The Early Warning Infectious Disease Surveillance Program (Chapter 2 (commencing with Section 1250) of Division 2; Chapter 2 (commencing with Section 120130) of Part 1 of Division 105).
- (3) The Division of Communicable Disease Control, including, but not limited to, all of the following:
 - (A) The Infant Botulism Treatment and Prevention Program (Article 2.5 (commencing with Section 123700) of Chapter 3 of Part 2 of Division 106).
 - (B) The Sexually Transmitted Disease Control Program (Part 3 (commencing with Section 120500) of Division 105).
 - (C) The Infectious Disease Program (Chapter 2 (commencing with Section 120130) of Part 1 of Division 105).
 - (D) The Bioterrorism Epidemiology Program.
 - (E) The Vector Borne Disease (Part 11 (commencing with Section 116100) of Division 104).
 - (F) The Tuberculosis Control Program (Part 5 (commencing with Section 121350) of Division 105).
 - (G) The Microbial Diseases Laboratory (Chapter 2 (commencing with Section 100250) of Division 101).
 - (H) The Viral and Rickettsial Disease Laboratory (Chapter 2 (commencing with Section 100250) of Division 101).
 - (I) The West Nile Human Surveillance Program (Chapter 2 (commencing with Section 116110) of Part 11 of Division 104).
 - (J) The Immunization Program (Part 2 (commencing with Section 120325) of Division 105).
 - (K) The Vaccines for Children Program (Part 2 (commencing with Section 120325) of Division 105).
- (4) The Division of Chronic Disease and Injury Control, including, but not limited to, all of the following:
 - (A) The IMPACT Prostate Cancer Treatment Program (Chapter 7 (commencing with Section 104322) of Part 1 of Division 103).

(B) The Every Woman Counts program (Breast and Cervical Cancer Screening Program) (Article 1.3 (commencing with Section 104150) of Chapter 2 of Part 1 of Division 103; Section 30461.6 of the Revenue and Taxation Code).

(C) The Well-Integrated Screening and Evaluation for Women Across the Nation Demonstration Project (Article 1.3 (commencing with Section 104150) of Chapter 2 of Part 1 of Division 103).

(D) The California Nutrition Network (Chapter 2 (commencing with Section 104575) of Part 3 of Division 103).

(E) The Cancer Research Program (Article 2 (commencing with Section 104175) of Chapter 2 of Part 1 of Division 103).

(F) The Translational Cancer Research and Technology Transfer Program (Article 2 (commencing with Section 104175) of Chapter 2 of Part 1 of Division 103).

(G) The Ken Maddy California Cancer Registry (Chapter 2 (commencing with Section 103875) of Part 2 of Division 102).

(H) The California Osteoporosis Prevention and Education Program (Chapter 1 (commencing with Section 125700) of Part 8 of Division 106).

(I) The Preventive Health Care for the Aging Program (Part 4 (commencing with Section 104900) of Division 103).

(J) The California Arthritis Prevention Program (former Section 100185).

(K) The Office of Oral Health (Chapter 3 (commencing with Section 104750) of Part 3 of Division 103).

(L) The Children's Dental Disease Prevention Program (Article 3 (commencing with Section 104770) of Chapter 3 of Part 3 of Division 103).

(M) The Community Water Fluoridation Program (Article 3.5 (commencing with Section 116409) of Chapter 4 of Part 12 of Division 104).

(N) The California Asthma Public Health Initiative (Chapter 6.5 (commencing with Section 104316) of Part 1 of Division 103).

(O) The California Obesity Prevention Initiative (Chapter 2 (commencing with Section 104575) of Part 3 of Division 103).

(P) The School Health Connections program (Chapter 2 (commencing with Section 104575) of Part 3 of Division 103).

(Q) The California Project LEAN (Chapter 2 (commencing with Section 104575) of Part 3 of Division 103).

(R) The California Center for Physical Activity (Section 131085).

(S) The California Diabetes Program (Section 131085).

(T) The Preventive Medicine Residency Program (Section 131090).

(U) The California Epidemiologic Investigation Service (Article 4 (commencing with Section 100325) of Chapter 2 of Part 1 of Division 101).

(V) The Continuing Professional Education Program (Section 131090).

(W) The Injury Surveillance and Epidemiology Program (Part 2 (commencing with Section 104325) of Division 103).

(X) The State and Local Injury Control Program (Chapter 1 (commencing with Section 104325) of Part 2 of Division 103).

(Y) The Office on Disability and Health (former Section 100185).

(Z) The Alzheimer's Disease Program (Article 4 (commencing with Section 125275) of Chapter 2 of Part 5 of Division 106).

(AA) The California Tobacco Control Program (Chapter 1 (commencing with Section 104350) of Part 3 of Division 103).

(5) The Division of Drinking Water and Environmental Management, including, but not limited to, all of the following:

(A) The Medical Waste Management Program (Part 14 (commencing with Section 117600) of Division 104).

(B) The Department of Defense Oversight Program (Radiologic Guidance and Approvals) (Part 9 (commencing with Section 114650) of Division 104).

(C) The Nuclear Emergency Response Program (Part 9 (commencing with Section 114650) of Division 104).

(D) The Institutions Program (Environmental Surveys) (Article 5 (commencing with Section 116025) of Chapter 5 of Part 10 of Division 104).

(E) The Drinking Water Field Management program (Chapter 4 (commencing with Section 116270) of Part 12 of Division 104).

(F) The Environmental Health Specialist Registration Program (Article 1 (commencing with Section 106600) of Chapter 4 of Part 1 of Division 104).

(G) The Sanitation and Radiation Laboratory (Article 2 (commencing with Section 100250) of Chapter 2 of Part 1 of Division 101; Chapter 4 (commencing with Section 116270) of Part 12 of Division 104).

(H) The Radon Program (Chapter 7 (commencing with Section 105400) of Part 5 of Division 103; Chapter 4 (commencing with Section 116270) of Part 12, and Article 2 (commencing with Section 106750) of Chapter 4 of Part 1, of Division 104).

(I) The Shellfish Sanitation Program (Chapter 5 (commencing with Section 112150) of Part 6 of Division 104).

(J) The Ocean Beach Safety Programs (Article 2 (commencing with Section 115875) of Chapter 5 of Part 10 of Division 104).

(K) The Bioterrorism Planning and Response for Drinking Water, Medical Waste, and Environmental Health program (Article 6 (commencing with Section 101315) of Chapter 3 of Part 3 of Division 101).

(L) The Safe Drinking Water State Revolving Fund (Chapter 4.5 (commencing with Section 116760) of Part 12 of Division 104).

(M) The Drinking Water Technical Programs (Chapter 4 (commencing with Section 16270) of Part 12 of Division 104; Chapter 4.5 (commencing with Section 116760) of Part 12 of Division 104; Article 3 (commencing with Section 106875) of Chapter 4 of Part 1 of Division 104; Chapter 5 (commencing with Section 116775) of Part 12 of Division 104; Chapter 5 (commencing with Section 115825) of Part 10 of Division 104; Chapter 7

(commencing with Section 13500) of Division 7 of the Water Code; Section 13411 of the Water Code).

(N) The Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002 (Proposition 50) (Division 26.5 (commencing with Section 79500) of the Water Code).

(6) The Division of Environmental and Occupational Disease Control, including, but not limited to, all of the following:

(A) The California Birth Defect Monitoring Program (Chapter 1 (commencing with Section 103825) of Part 2 of Division 102).

(B) The Childhood Lead Poisoning Prevention Program (Chapter 5 (commencing with Section 105275) of Part 5 of Division 103; Article 7 (commencing with Section 124125) of Chapter 3 of Part 2 of Division 106.

(C) The Lead Related Construction Program (Chapter 4 (commencing with Section 105250) of Part 5 of Division 103).

(D) The Epidemiology Studies Laboratory (Sections 25416, former Section 100170, Section 100325, and Section 104324.25).

(E) The Center for Autism and Developmental Disabilities Research and Epidemiology (former Section 100170).

(F) The Cancer Cluster/Environmental Investigations (former Section 100170).

(G) The Toxic Mold Program (Chapter 18 (commencing with Section 26100) of Division 20).

(H) The Federal Agency for Toxic Substances and Disease Registry Health Assessments, Education and Investigations program (former Section 100170).

(I) The Fish Contamination Outreach and Education program (former Section 100170).

(J) The Air Pollution and Cardiovascular Disease in the California Teachers Study Cohort Project (former Section 100170).

(K) The Delta Watershed Fish Project (outreach, education, and training to reduce exposures to mercury in fish) (former Section 100170).

(L) The Environmental Health Laboratory (former Section 100170; Article 2 (commencing with Section 100250) of Chapter 2 of Part 1 of Division 101).

(M) The Indoor Air Quality program (Chapter 7 (commencing with Section 105400) of Part 5 of Division 103).

(N) The Outdoor Air Quality program (Section 60.9 of the Labor Code).

(O) The Laboratory Response Network for Chemical Terrorism program (former Section 100170; Article 2 (commencing with Section 100250) of Chapter 2 of Part 1 of Division 101).

(P) The Air Quality and Human Monitoring Support Program (former Section 100170).

(Q) The Hazard Evaluation System and Information Service Program (Article 1 (commencing with Section 105175) of Chapter 2 of Part 5 of Division 103; Section 147.2 of the Labor Code).

(R) The Occupational Health Surveillance and Evaluation Program (Article 1 (commencing with Section 105175) of Chapter 2 of Part 5 of Division 103).

(S) The Occupational Lead Poisoning Prevention Program (Article 2 (commencing with Section 105185) of Chapter 2 of Part 5 of Division 103).

(T) The Occupational Blood Lead Registry (Article 2 (commencing with Section 105185) of Chapter 2 of Part 5 of Division 103).

(7) The Division of Food, Drug and Radiation Safety, including, but not limited to, all of the following:

(A) The Drug Licensing Program (Article 6 (commencing with Section 111615) of Chapter 6 of Part 5 of Division 104).

(B) The Consumer Product Safety Program (Part 3 (commencing with Section 108100) of Division 104).

(C) The Export Program (Article 2 (commencing with Section 110190) of Chapter 2 of Part 5 of Division 104).

(D) The Food Safety Inspection Program (Part 5 (commencing with Section 109875) and Part 6 (commencing with Section 111940) of Division 104).

(E) The Foodborne Illness and Tampering Emergency Response Program (Part 5 (commencing with Section 109875) of Division 104).

(F) The Retail Food Safety Program (Part 7 (commencing with Section 113700) of Division 104).

(G) The Food Safety Industry Education and Training Program (pursuant to Section 110485).

(H) The Medical Device Licensing Program (Article 6 (commencing with Section 111615) of Chapter 6 of Part 5 of Division 104).

(I) The Medical Device Safety Program (Part 5 (commencing with Section 109875) of Division 104).

(J) The Stop Tobacco Access to Kids Enforcement Program (STAKE) (Division 8.5 (commencing with Section 22950) of the Business and Professions Code).

(K) The Food and Drug Laboratory (Chapter 2 (commencing with Section 100250) of Division 101).

(L) The Drug Safety Program (Part 4 (commencing with Section 109250) and Part 5 (commencing with Section 109875) of Division 104).

(M) The General Food Safety Program (Part 5 (commencing with Section 109875) and Part 6 (commencing with Section 111940) of Division 104).

(N) The Food Testing Program (Chapter 2 (commencing with Section 100250) of Division 101).

(O) The Forensic Alcohol Testing Program (Article 2 (commencing with Section 100700) of Chapter 4 of Part 1 of Division 101).

(P) The Methadone Laboratory Regulating Program (Article 2 (commencing with Section 11839.23) of Chapter 10 of Part 2 of Division 10.5).

(Q) The Radiologic Health Program (Part 9 (commencing with Section 114650) of Division 104).

(R) The Mammography Program (Chapter 6 (commencing with Section 114840) of Part 9 of Division 104).

(S) The Radioactive Materials Licensing and Inspection Program (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104).

(T) The Radiological Technologist Certification Program (Article 5 (commencing with Section 106955) of Part 1, and Article 3 (commencing with Section 114855) of Chapter 6 of Part 9 of Division 104).

(U) The Radioactive Waste Tracking Program (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104).

(V) The Radioactive Waste Minimization Program (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104).

(W) The Low Level Radioactive Waste Management, Treatment and Disposal Program (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104).

(X) The Statewide Environmental Radiation Monitoring Program (pursuant to Section 114755).

(Y) The Department of Energy Oversight Program (Part 9 (commencing with Section 114650) of Division 104).

(Z) The X-Ray Machine Inspection and Registration and Mammography Quality Standards Act Inspection Program (Article 5 (commencing with Section 106955) of Part 1, and Article 3 (commencing with Section 114855) of Chapter 6 of Part 9 of Division 104).

(8) The Deputy Director for Laboratory Science, including, but not limited to, all of the following:

(A) The Environmental Laboratory Accreditation Program (Article 3 (commencing with Section 100825) of Chapter 4 of Part 1 of Division 101).

(B) The Laboratory Central Services Program (Article 2 (commencing with Section 100250) of Chapter 2 of Part 1 of Division 101).

(C) The National Laboratory Training Network (Section 131085).

(D) The Laboratory Field Services program (Chapter 3 (commencing with Section 1200) of Division 2 of the Business and Professions Code).

(b) Under the jurisdiction of the Deputy Director for Licensing and Certification:

(1) The General Acute Care Hospitals Licensing Program (Chapter 2 (commencing with Section 1250) of Division 2).

(2) The Acute Psychiatric Hospitals Licensing Program (Chapter 2 (commencing with Section 1250) of Division 2).

(3) The Special Hospitals Licensing Program (Chapter 2 (commencing with Section 1250) of Division 2).

(4) The Chemical Dependency Recovery Hospitals Licensing Program (Chapter 2 (commencing with Section 1250) of Division 2).

(5) The Skilled Nursing Facilities Licensing Program (Chapter 2 (commencing with Section 1250) of Division 2).

(6) The Intermediate Care Facilities Licensing Program (Chapter 2 (commencing with Section 1250) of Division 2).

(7) The Intermediate Care Facilities-Developmentally Disabled Licensing Program (Chapter 2 (commencing with Section 1250) of Division 2).

(8) The Intermediate Care Facilities-Developmentally Disabled-Habilitative Licensing Program (Chapter 2 (commencing with Section 1250) of Division 2).

(9) The Intermediate Care Facility-Developmentally Disabled-Nursing Licensing Program (Chapter 2 (commencing with Section 1250) of Division 2).

(10) The Home Health Agencies Licensing Program (Chapter 8 (commencing with Section 1725) of Division 2).

(11) The Referral Agencies Licensing Program (Chapter 2.3 (commencing with Section 1400) of Division 2).

(12) The Adult Day Health Centers Licensing Program (Chapter 3.3 (commencing with Section 1570) of Division 2).

(13) The Congregate Living Health Facilities (Chapter 2 (commencing with Section 1250) of Division 2).

(14) The Psychology Clinics Licensing Program (Chapter 1 (commencing with Section 1200) of Division 2).

(15) The Primary Clinics—Community and Free Licensing Program (Chapter 1 (commencing with Section 1200) of Division 2).

(16) The Specialty Clinics—Rehab Clinics Licensing Program (Chapter 1 (commencing with Section 1200) of Division 2).

(17) The Dialysis Clinics Licensing Program (Chapter 1 (commencing with Section 1200) of Division 2).

(18) The Pediatric Day Health/Respite Care Licensing Program (Chapter 2 (commencing with Section 1250) of Division 2).

(19) The Alternative Birthing Centers Licensing Program (Chapter 1 (commencing with Section 1200) of Division 2).

(20) The Hospice Licensing Program (Chapter 2 (commencing with Section 1339.30) of Division 2).

(21) The Correctional Treatment Centers Licensing Program (Chapter 2 (commencing with Section 1250) of Division 2).

(22) The Medicare/Medi-Cal Certification Program (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code).

(23) The Nursing Home Administrator Professional Certification Program (Chapter 2.35 (commencing with Section 1416) of Division 2).

(24) The Certified Nursing Assistants Professional Certification Program (Chapter 2 (commencing with Section 1337) of Division 2).

(25) The Home Health Aides Professional Certification Program (Chapter 8 (commencing with Section 1725) of Division 2).

(26) The Hemodialysis Technicians Professional Certification Program (Chapter 3 (commencing with Section 1247) of Division 2 of the Business

and Professions Code; Chapter 10 (commencing with Section 1794) of Division 2).

(27) The Criminal Background Clearance Program (Chapter 2 (commencing with Section 1337), Chapter 3 (commencing with Section 1520), Chapter 3.01 (commencing with Section 1569.15), Chapter 3.4 (commencing with Section 1496.80) of Division 2, and Chapter 4 (commencing with Section 11150) of Division 8).

(c) Under the jurisdiction of the Deputy Director for Health Information and Strategic Planning:

(1) The Refugee Health Program (Subpart G of Part 400 of Title 45 of the Code of Federal Regulations).

(2) The Office of County Health Services (Article 5 (commencing with Section 101300) of Chapter 3 of Part 3 of Division 101; Part 4.7 (commencing with Section 16900) of Division 9 of the Welfare and Institutions Code).

(3) The Medically Indigent Services Program (Article 5 (commencing with Section 101300) of Chapter 3 of Part 3 of Division 101).

(4) The Office of Vital Records (Part 1 (commencing with Section 102100) of Division 102).

(5) The Office of Health Information and Research (Article 1 (commencing with Section 102175) of Chapter 2 of Part 1 of Division 102; Section 128730).

(6) The Local Public Health Services Program (Article 5 (commencing with Section 101300) of Chapter 3 of Part 3 of Division 101).

(7) The Center for Health Statistics (Part 1 (commencing with Section 102100) of Division 102; Section 128730).

(8) The Medical Marijuana Program (Article 2.5 (commencing with Section 11362.7) of Chapter 6 of Division 10 of the Health and Safety Code).

(d) Under the jurisdiction of the Deputy Director for Primary Care and Family Health:

(1) The Maternal, Child and Adolescent Health program (Part 2 (commencing with Section 123225) of Division 106).

(2) The Adolescent Family Life Program (Article 1 (commencing with Section 124175) of Chapter 4 of Part 2 of Division 106).

(3) The Advanced Practice Nurse Training program (Part 2 (commencing with Section 123225) of Division 106).

(4) The Black Infant Health Program (Part 2 (commencing with Section 123225) of Division 106).

(5) The Breastfeeding Program (Article 3 (commencing with Section 123360) of Chapter 1 of Part 2 of Division 6).

(6) The California Diabetes and Pregnancy Program (Part 2 (commencing with Section 123225) of Division 106).

(7) The California Initiative to Improve Adolescent Health (Part 2 (commencing with Section 123225) of Division 106).

(8) The Childhood Injury Prevention Program (Article 4 (commencing with Section 100325) of Chapter 2 of Division 101).

(9) The Comprehensive Perinatal Services Program (Article 3 (commencing with Section 123475) of Chapter 2 of Part 2; Section 14134.5 of the Welfare and Institutions Code).

(10) The Fetal and Infant Mortality Review Program (Article 1 (commencing with Section 123650) of Chapter 3 of Part 2 of Division 106).

(11) The Human Stem Cell Research Program (Chapter 3 (commencing with Section 125290.10) of Part 5 of Division 106; Chapter 1 (commencing with Section 125300) of Part 5.5 of Division 106).

(12) The Local Health Department Maternal, Child and Adolescent Health Program (Section 123255).

(13) The Maternal Mortality Review Program (Article 4 (commencing with Section 100325) of Chapter 2 of Division 101).

(14) The Oral Health Program (Part 2 (commencing with Section 123225) of Division 106).

(15) The Preconception Health and Health Care Initiative (Part 2 (commencing with Section 123225) of Division 106).

(16) The Regional Perinatal Programs of California (Article 4 (commencing with Section 123550) of Chapter 2 of Part 2 of Division 106).

(17) The Perinatal Dispatch Centers Outreach and Education Program (Article 4 (commencing with Section 123750) of Chapter 3 of Part 2 of Division 106).

(18) The State Early Childhood Comprehensive Services program (Part 2 (commencing with Section 123225) of Division 106).

(19) The Sudden Infant Death Syndrome Program (Article 3 (commencing with Section 123725) of Chapter 3 of Part 2 of Division 106).

(20) The Youth Pilot Program (Chapter 12.85 (commencing with Section 18987) of Part 6 of Division 9 of the Welfare and Institutions Code).

(21) The Office of Family Planning (Chapter 8.5 (commencing with Section 14500) of Part 3 of Division 9 of the Welfare and Institutions Code; Division 24 (commencing with Section 24000) of the Welfare and Institutions Code).

(22) The Community Challenge Grant Program (Section 14504.1 of the Welfare and Institutions Code, and Chapter 14 (commencing with Section 18993) of Part 6 of Division 9 of the Welfare and Institutions Code).

(23) The Information and Education Program (Section 14504.3 of the Welfare and Institutions Code).

(24) The Family PACT Program (Sections 14132(aa) and 24005 of the Welfare and Institutions Code).

(25) The Male Involvement Program (Section 14504 of the Welfare and Institutions Code).

(26) The TeenSMART Outreach Program (Section 14504.2 of the Welfare and Institutions Code).

(27) The Battered Women Shelter Program (Chapter 6 (commencing with Section 124250) of Part 2 of Division 106).

(28) The Women, Infants and Children Program (Article 1 (commencing with Section 123275) of Chapter 1 of Part 2 of Division 106).

(29) The WIC Supplemental Nutrition Program (Article 1 (commencing with Section 123275) of Chapter 1 of Part 2 of Division 106).

(30) The Farmers Market Nutrition Program (Section 123279).

(31) Genetic Disease Program (Chapter 1 (commencing with Section 124975) of Part 5 of Division 106).

(32) The Newborn Screening Program (Chapter 1 (commencing with Section 124975) of Part 5 of Division 106).

(33) The Prenatal Screening Program (Chapter 1 (commencing with Section 124975) of Part 5 of Division 106).

131052. In implementing the transfer of jurisdiction pursuant to this article, the State Department of Public Health succeeds to and is vested with all the statutory duties, powers, purposes, responsibilities, and jurisdiction of the former State Department of Health Services as they relate to public health as provided for or referred to in all of the following provisions of law:

(1) Sections 550, 555, 650, 680, 1241, 1658, 2221.1, 2248.5, 2249, 2259, 2259.5, 2541.3, 2585, 2728, 3527, 4017, 4027, 4037, 4191, 19059.5, 19120, 22950, 22973.2, and 22974.8 of the Business and Professions Code.

(2) Sections 56.17, 1812.508, and 1812.543 of the Civil Code.

(3) Sections 8286, 8803, 17613, 32064, 32065, 32066, 32241, 49030, 49405, 49414, 49423.5, 49452.6, 49460, 49464, 49565, 49565.8, 49531.1, 56836.165, and 76403 of the Education Code.

(4) Sections 405, 6021, 6026, 18963, 30852, 41302, and 78486 of the Food and Agricultural Code.

(5) Sections 307, 355, 422, 7572, 7574, 8706, 8817, and 8909 of the Family Code.

(6) Sections 217.6, 1507, 1786, 4011, 5671, 5674, 5700, 5701, 5701.5, 7715, and 15700 of the Fish and Game Code.

(7) Sections 855, 51010, and 551017.1 of the Government Code. For purposes of subdivision (s) of Section 6254 of the Government Code, the term "State Department of Health Services" is here-by deemed to refer to the State Department of Public Health.

(8) (A) Sections 475, 1180.6, 1418.1, 1422.1, 1428.2, 1457, 1505, 1507.1, 1507.5, 1570.7, 1599.2, 1599.60, 1599.75, 1599.87, 2002, 2804, 11362.7, 11776, 11839.21, 11839.23, 11839.24, 11839.25, 11839.26, 11839.27, 11839.28, 11839.29, 11839.30, 11839.31, 11839.32, 11839.33, 11839.34, 17920.10, 17961, 18897.2, 24185, 24186, 24187, 24275, 26101, 26122, 26134, 26155, 26200, and 26203.

(B) Chapters 1, 2, 2.05, 2.3, 2.35, 2.4, 3.3, 3.9, 3.93, 3.95, 4, 4.1, 4.5, 5, 6, 6.5, 8, 8.3, 8.5, 8.6, 9, and 11 of Division 2.

(C) Articles 2 and 4 of Chapter 2, Chapter 3, and Chapter 4 of Part 1, Part 2 and Part 3 of Division 101.

(D) Division 102, including Sections 102230 and 102231.

(E) Division 103, including Sections 104145, 104160, 104181, 104182, 104182.5, 104187, 104191, 104324.2, 104324.25, 104350, 105191, 105251, 105255, 105280, 105340, and 105430.

(F) Division 104, including Sections 106615, 106675, 106770, 108115, 108855, 109282, 109910, 109915, 112155, 112500, 112650, 113355, 114460, 114475, 114650, 114710, 114850, 114855, 114985, 115061, 115261, 115340, 115736, 115880, 115885, 115915, 116064, 116183, 116270, 116365.5, 116366, 116375, 116610, 116751, 116760.20, 116825, 117100, 117924, and 119300.

(G) Division 105, including Sections 120262, 120381, 120395, 120440, 120480, 120956, 120966, 121155, 121285, 121340, 121349.1, 121480, 122410, and 122420.

(H) Part 1, Part 2 excluding Articles 5, 5.5, 6, and 6.5 of Chapter 3, Part 3 and Part 5 excluding Articles 1 and 2 of Chapter 2, Part 7, and Part 8 of Division 106.

(9) Sections 799.03, 10123.35, 10123.5, 10123.55, 10123.10, 10123.184, and 11520 of the Insurance Code.

(10) Sections 50.8, 142.3, 144.5, 144.7, 147.2, 4600.6, 6307.1, 6359, 6712, 9009, and 9022 of the Labor Code.

(11) Sections 4018.1, 5008.1, 7501, 7502, 7510, 7511, 7515, 7518, 7530, 7550, 7553, 7575, 7576, 11010, 11174.34, and 13990 of the Penal Code.

(12) Section 4806 of the Probate Code.

(13) Sections 15027, 25912, 28004, 30950, 41781.1, 42830, 43210, 43308, 44103, and 71081 of the Public Resources Code.

(14) Section 10405 of the Public Contract Code.

(15) Sections 883, 1507, and 7718 of the Public Utilities Code.

(16) Sections 18833, 18838, 18845.2, 18846.2, 18847.2, 18863, 30461.6, 43010.1, and 43011.1 of the Revenue and Taxation Code.

(17) Section 11020 of the Unemployment Insurance Code.

(18) Sections 22511.55, 23158, 27366, and 33000 of the Vehicle Code.

(19) Sections 5326.9, 5328, 5328.15, 14132, 16902, and 16909, and Division 24 of the Welfare and Institutions Code. Payment for services provided under the Family Planning, Access, Care, and Treatment (Family PACT) Waiver Program pursuant to subdivision (aa) of Section 14132 and Division 24 shall be made through the State Department of Health Care Services. The State Department of Public Health and the State Department of Health Care Services may enter into an interagency agreement for the administration of those payments.

(20) Sections 13176, 13177.5, 13178, 13193, 13390, 13392, 13392.5, 13393.5, 13395.5, 13396.7, 13521, 13522, 13523, 13528, 13529, 13529.2, 13550, 13552.4, 13552.8, 13553, 13553.1, 13554, 13554.2, 13816, 13819, 13820, 13823, 13824, 13825, 13827, 13830, 13834, 13835, 13836, 13837, 13858, 13861, 13862, 13864, 13868, 13868.1, 13868.3, 13868.5, 13882,

13885, 13886, 13887, 13891, 13892, 13895.1, 13895.6, 13895.9, 13896, 13896.3, 13896.4, 13896.5, 13897, 13897.4, 13897.5, 13897.6, 13898, 14011, 14012, 14015, 14016, 14017, 14019, 14022, 14025, 14026, 14027, and 14029 of the Water Code.

131053. In the event of any conflict between Sections 131050, 131051, and 131052, Section 131052 shall prevail over Section 131051, and Section 131050 shall prevail over Sections 131051 and 131052.

131055. (a) All regulations and orders adopted by the former State Department of Health Services and any of its predecessors in effect immediately preceding the operative date of this section shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed, or until they expire by their own terms. Any action by or against the former State Department of Health Services or any of its predecessors pertaining to matters vested in the State Department of Public Health by this chapter shall not abate but shall continue in the name of the State Department of Public Health, and the State Department of Public Health shall be substituted for the former State Department of Health Services and any of its predecessors by the court wherein the action is pending. The substitution shall not in any way affect the rights of the parties to the action.

(b) On and after the operative date of this section, the unexpended balance of all funds available for use by the former State Department of Health Services or any of its predecessors in carrying out any functions transferred to the State Department of Public Health shall be available for use by the State Department of Public Health.

(c) All books, documents, records, and property of the former State Department of Health Services pertaining to functions transferred to the Department of Public Health shall be transferred to the State Department of Public Health.

(d) On and after the operative date of this section, positions other than that of the State Public Health Officer and the Chief Deputy filled by appointment by the Governor in the former State Department of Health Services whose principal assignment was to perform functions transferred to the State Department of Public Health shall be transferred to the State Department of Public Health. Individuals in positions transferred pursuant to this section shall serve at the pleasure of the Governor. Salaries of positions transferred shall remain at the level established pursuant to law unless otherwise provided.

(e) Every officer and employee of the former State Department of Health Services who is performing a function transferred to the State Department of Public Health and who is serving in the state civil service, other than as a temporary employee, shall be transferred to the State Department of Public Health pursuant to the provisions of Section 19050.9 of the Government Code. The status, position, and rights of any officer or employee of the former State Department of Health Services shall not be affected by the transfer and shall be retained by the person as an officer or employee of the State Department of Public Health, as the case may be,

pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code), except as to a position that is exempt from civil service.

131056. The department may commence and maintain all proper and necessary actions and proceedings for any or all of the following purposes:

- (a) To enforce its regulations.
- (b) To enjoin and abate nuisances dangerous to health.
- (c) To compel the performance of any act specifically enjoined upon any person, officer, or board, by any law of this state relating to the public health.
- (d) To protect and preserve the public health.

It may defend all actions and proceedings involving its powers and duties. In all actions and proceedings it shall sue and be sued under the name of the department.

131057. With the approval of the Department of Finance, and for use in the furtherance of the work of the department, the director may accept (a) grants of interest in real property, and (b) gifts of money from public agencies or from organizations or associations organized for scientific, educational, or charitable purposes.

Article 2. Regulatory Authorization and Review

131200. The department may adopt and enforce regulations for the execution of its duties.

131205. Notwithstanding any other provision of law, the department shall submit all of its regulations on matters related to statutory responsibilities delegated to or enforced by local health departments, except emergency regulations, to the California Conference of Local Health Officers for review and comment prior to adoption. If the department deems it appropriate to implement the proposed regulations or parts thereof, contrary to the recommendations of the conference, the department shall make a public finding summarizing the reasons for acting contrary to these recommendations.

131210. The department, after consultation with and approval by the Conference of Local Health Officers, shall by regulation establish standards of education and experience for professional and technical personnel employed in local health departments and for the organization and operation of the local health departments. These standards may include standards for the maintenance of records of services, finances, and expenditures, that shall be reported to the director in a manner and at times as the director may specify.

131215. (a) When a dispute arises as to the interpretation or enforcement of regulations of the department that are being enforced by a city, county, city and county, or district, a request for clarification or interpretation may be submitted to the department. The department shall

make a determination of the proper interpretation and required enforcement when so requested by a party to the dispute.

(b) In making its determination, the department may conduct a hearing where all interested parties may present relative comments or arguments.

(c) Determinations of the department made pursuant to this section shall be transmitted to the concerned local agency and the involved party or parties within 60 days after the receipt of the request. The determination of the department shall be binding upon the local agency and the parties subject to the regulations of the department, except when the matter may be subject to judicial review.

131220. Notwithstanding any other provision of law, but to the extent consistent with applicable federal law or regulation, the director may, after a request by a board of supervisors of an affected county and after a public hearing held in accordance with Section 11346 of the Government Code, waive regulations pertaining to the provision of hospital services in a hospital operated by a county or under contract to a county for a county with a population of 200,000 or less on January 1, 1980, if the director makes a finding that the waiver would not affect adversely the health and safety of persons in the county. The authority contained in this section shall be in addition to, and shall not supersede or limit, any other provision of law authorizing the waiver by the department of requirements contained in regulations adopted by the department relating to health facilities.

131225. (a) Notwithstanding any other provision of law, the department by regulation may provide for the issuance and renewal on a two-year basis of licenses, certificates of registration, or other indicia of authority issued pursuant to this code by the department.

(b) The department may by regulation set the fee for the two-year license, certificate of registration, or other indicia, not to exceed twice the annual fee for issuance or renewal set by statute.

CHAPTER 3. PUBLIC HEALTH ADVISORY COMMITTEE

131230. (a) The director shall convene a Public Health Advisory Committee to provide expert advice and make recommendations on the development of policies and programs that seek to prevent illness and promote the public's health.

(b) The advisory committee shall include representatives from a broad cross section of public health stakeholders which may include academia, biotechnology, business, community based organizations, emergency services, local government, health departments, medicine, nursing, public health laboratories, social marketing, consumers, and other sectors of the public health community.

(c) The advisory committee shall consist of 15 members. The Governor shall appoint nine members, the Speaker of the Assembly three members, and Senate Committee on Rules three members. All appointees shall have

experience or background working in a part of the broad cross section of public health stakeholders identified in subdivision (b).

(d) Committee members shall serve on a voluntary basis and shall not receive any compensation.

(e) The advisory committee shall identify strategies to improve public health program effectiveness, identify emerging public health issues, and make recommendations, as necessary, on programs and policies to improve the health and safety of Californians.

(f) The committee shall be under the direction of the director and shall be advisory in character and shall not be delegated any administrative authority or responsibility.

(g) The advisory committee shall convene twice per year, and may convene more often, if necessary, to provide expert advice to the department. Meetings of the committee shall be open to the public and shall comply with applicable open meeting laws.

(h) The director or his or her designee shall serve as chair of the public health advisory committee. Nothing in this section shall be construed as preventing or restricting the State Public Health Officer from creating other advisory committees to advise the director with regard to other issues and problems.

(i) This chapter shall remain in effect only until June 30, 2011, and as of that date is repealed, unless a later enacted statute extends or deletes that date.

SEC. 35. (a) No contract, lease, license, bond, or any other agreement to which the former State Department of Health Services or any of its predecessors are a party shall be void or voidable by reason of this act, but shall continue in full force and effect, with the renamed State Department of Health Care Services and the newly formed State Department of Public Health assuming all of the rights, obligations, liabilities, and duties of the former State Department of Health Services and any of its predecessors as relates to the duties, powers, purposes, responsibilities, and jurisdiction vested by this act in each of the resulting departments. The assumption by each department shall not in any way affect the rights of the parties to the contract, lease, license, or agreement. Bonds issued by the former State Department of Health Services or any of its predecessors on or before the operative date of this section related to the duties, powers, purposes, responsibilities, and jurisdiction vested by this act in the renamed State Department of Health Care Services or in the newly formed State Department of Public Health, shall become the indebtedness of the State Department of Health Care Services or of the State Department of Public Health, as they relate to responsibilities assigned to each resulting department. Any ongoing obligations or responsibilities of the former State Department of Health Services for managing and maintaining these bond issuances shall be transferred to the newly formed State Department of Public Health or retained by the renamed State Department of Health Care Services, as appropriate, without impairment to any security contained in the bond instrument.

(b) The renamed State Department of Health Care Services retains and is vested with, all the duties, powers, purposes, responsibilities, and jurisdiction of the former State Department of Health Services with respect to all duties, powers, purposes, responsibilities, and jurisdiction not transferred to the State Department of Public Health.

(c) All officers and employees of the former State Department of Health Services who are serving in the state civil service, other than as temporary employees assigned to programs, not transferred to the State Department of Public Health shall be retained by the renamed State Department of Health Care Services. The status, positions, and rights of those persons shall not be affected by the renaming and shall be retained by those persons as officers and employees of the renamed department, pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code), except as to positions exempt from the civil service.

(d) The State Department of Health Care Services shall have possession and control of all records, papers, offices, equipment, supplies, moneys, funds, appropriations, licenses, permits, agreements, contracts, claims, judgments, land, and other property, real or personal, connected with the administration of, or held for, the benefit or use of the former State Department of Health Services, with respect to the functions that were not transferred to the State Department of Public Health pursuant to this act.

(e) Any regulation or other action, adopted, prescribed, taken, or performed by an agency or officer in the administration of a program or the performance of a duty, responsibility, or authorization transferred by the act adding this section shall remain in effect and shall be deemed to be a regulation or action of the agency or officer to whom the program, duty, responsibility, or authorization is assigned pursuant to this act.

(f) No suit, action, or other proceeding lawfully commenced by or against any agency or other officer of the state, in relation to the administration of any program or the discharge of any duty, responsibility, or authorization transferred or reassigned by this act, shall abate by reason of the transfer or assigning of the program, duty, responsibility, or authorization under this act.

SEC. 36. (a) The reorganization of the former State Department of Health Services pursuant to Sections 1 to 35, inclusive, shall be budget neutral; that is, it is the intent of the Legislature not to provide state funding for the State Department of Public Health and the State Department of Health Care Services in excess of the total state funding previously appropriated to the former State Department of Health Services, with possible caseload and inflation adjustments.

(b) The reorganization shall be implemented without the additional appropriation of state funds. However, the Legislature finds and declares that to implement this act, funding adjustments may be required to align appropriation authority and to provide for anticipated expenditures to the appropriate funding sources.

(c) The annual budget for the State Department of Public Health and State Department of Health Care Services shall be proposed and considered in the process for review of the annual Budget Act.

SEC. 37. Sections 1 to 35, inclusive, of this act shall become operative on July 1, 2007.

SEC. 38. (a) The Office of Change Management is hereby established within the State Department of Health Services.

(b) In order to implement this act, the State Department of Health Services may redirect the positions and resources necessary to operate the Office of Change Management. Prior to July 1, 2007, the Office of Change Management shall be responsible for planning and guiding the implementation of transition activities associated with reorganizing the functions of the State Department of Health Services pursuant to this act.

(c) This section shall be operative only until July 1, 2007, and as of that date is repealed.

SEC. 39. Any section of any act, other than the act for the maintenance of the codes, enacted by the Legislature during the 2006 calendar year that takes effect on or before January 1, 2007, and that amends, amends and renumbers, adds, repeals and adds, or repeals a section that is amended, amended and renumbered, added, repealed and added, or repealed by this act, shall prevail over the amendment, amendment and renumbering, addition, repeal and addition, or repeal of that section by this act whether that act is enacted prior to, or subsequent to, the enactment of this act.

Memorandum

To: Honorable Jerome E. Horton, Chairman
Honorable Michelle Steel, Vice Chair
Honorable Betty T. Yee, First District
Senator George Runner, Second District
Honorable John Chiang, State Controller

Date: August 9, 2011

From: Randy Ferris, Acting Chief Counsel

David Gau, Deputy Director
Property and Special Taxes Department


Subject: Board Meeting, August 23-24, 2011
Chief Counsel Matters - Item J - Rulemaking
Proposed Rule 100 Changes to Specified Special Tax and Fee Regulations

We request your approval to place proposed Rule 100 changes to ten Special Tax and Fee regulations on the Chief Counsel's Rulemaking Calendar for the August 23-24, 2011, Board meeting in order to request the Board's authorization to complete the changes. These changes are proposed to be made to regulations pertaining to: the Cigarette and Tobacco Products Licensing Act of 2003; the Hazardous Substances Tax Law; and the Integrated Waste Management Fee Law.

Each of the attached Statements of Explanation includes a detailed description of the proposed changes to each regulation and strikeout and underlined versions of each regulation illustrating the proposed changes. The changes correct a reference to a statute, update the name of the Board division responsible for administering these programs, and update the names of two agencies whose names have changed. The changes are appropriate for processing under Rule 100 without the normal notice and public hearing process because they are changes without regulatory effect and do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any California Code of Regulations provision.

If you have any questions regarding this request, please let me know or contact Ms. Carolee Johnstone, at (916) 323-3142.

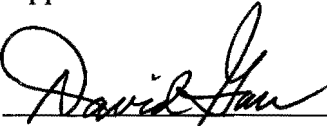
Recommendation by:


Randy Ferris, Acting Chief Counsel


Approved:


Kristine Cazadd, Interim Executive Director

Approved:


David Gau, Deputy Director
Property and Special Taxes Department

BOARD APPROVED

At the 8/23/11 Board Meeting
Diane Olson, Chief
Board Proceedings Division

Attachments

Statements of Explanation for Changes to Cigarette and Tobacco Products Licensing Act Regulations 4500, *Definitions*, 4504, *Determination of Arm's Length Transaction*, 4507, *Request for Information and Records*, 4508, *Appeal - Denial of License*, 4509, *Non-Arm's Length Transfer - Sales*, 4600, *Issuance and Contents of a Notice of Violation or Warning Notice*, 4609, *Right to Appeal*, 4700, *Appeal - Excise Taxes Division*.

Statement of Explanation for Changes to Hazardous Substances Tax Regulation 3020, *Records*.

Statement of Explanation for Changes to Integrated Waste Management Fee Regulation 3301, *Records*.

cc: (with attachments):

Ms. Diane Olson	MIC:80
Ms. Christine Bisauta	MIC:82
Mr. Steve Smith	MIC:82
Mr. Bradley Heller	MIC:82
Ms. Carolee Johnstone	MIC:82
Ms. Lynn Bartolo	MIC:57
Mr. Lou Feletto	MIC:31
Mr. Robert Zivkovich	MIC:57

CHANGES WITHOUT REGULATORY EFFECT UNDER CALIFORNIA CODE OF REGULATIONS, TITLE 1, SECTION 100

Statement of Explanation

Title 18. Public Revenue

Regulation 4500, *Definitions*

Regulation 4504, *Determination of Arm's Length Transaction*

Regulation 4507, *Request for Information and Records*

Regulation 4508, *Appeal—Denial of License*

Regulation 4509, *Non-Arm's Length Transfer—Sales*

Regulation 4600, *Issuance and Contents of a Notice of Violation or Warning Notice*

Regulation 4609, *Right to Appeal*

Regulation 4700, *Appeal—Excise Taxes Division*

A. Factual Basis

California Code of Regulations, title 18, section (Regulation) 4500, *Definitions*, generally provides the definitions that apply to chapter 9.5 (commencing with Regulation 4500) of division 2 of title 18 of the California Code of Regulations, which prescribes the application of the Cigarette and Tobacco Products Licensing Act of 2003 (division 8.6 (commencing with section 22970) of the Business and Professions Code) (Licensing Act). The State Board of Equalization (Board) hereby proposes to update a statutory reference in Regulation 4500, subdivision (i), delete Regulation 4500, subdivision (k), add new subdivision (t), and make other conforming changes to Regulation 4500 and chapter 9.5, under California Code of Regulations, title 1, section (Rule) 100.

Regulation 4500, subdivision (i), defines the term “control” or “controlling” by reference to Business and Professions Code (BPC) section 22971’s definition for the same term. However, BPC section 22971, subdivision (p), defining for the term “control” or “controlling,” was recently renumbered as BPC section 22971, subdivision (d), by Statutes 2010, chapter 607 (Assem. Bill No. 2733), section 1). Accordingly, the Board proposes to amend the definition for the term control in Regulation 4500, subdivision (i), so that it now correctly provides that “‘Control’ or ‘controlling’ means control or controlling as defined in Business and Professions Code section 22971, subdivision (d),” instead of as defined in BPC section 22971, subdivision (p).

As a result of a department-wide reorganization of the Board’s Property and Special Taxes Department on July 1, 2010, administration of the Licensing Act was assigned to a newly established Special Taxes and Fees Division, in place of the department’s Excise Taxes Division. Therefore, the definition of “Excise Taxes Division staff” in Regulation 4500, subdivision (k), is no longer applicable to chapter 9.5. Furthermore, the Board determined that the term “Excise Taxes Division” is currently used throughout chapter 9.5, but the term “Excise Taxes Division staff” is not used in chapter 9.5. Accordingly, the Board proposes to delete subdivision (k) of Regulation 4500 defining “Excise Taxes Division staff,” and add a new subdivision (t) to Regulation 4500 defining “Special Taxes and Fees Division.” The Board proposes to renumber

subdivisions (l) through (t) of Regulation 4500 as subdivisions (k) through (s), respectively. The Board also proposes to replace the term “Excise Taxes Division” with the term “Special Taxes and Fees Division” everywhere the term appears in chapter 9.5 (Regulations 4504, 4507, 4508, 4509, 4600, 4609, 4700).

B. Proposed Amendments

1. Rule 100 Changes to Regulation 4500, *Definitions*

A Rule 100 change is proposed to replace the reference to BPC section 22971, subdivision (p), in Regulation 4500, subdivision (i), with a reference to BPC section 22971, subdivision (d), because BPC section 22971, subdivision (p), was recently renumbered as subdivision (d).

Rule 100 changes are also proposed to: (1) delete subdivision (k) of Regulation 4500 defining “Excise Taxes Division staff”; (2) renumber subdivisions (l) through (t) of Regulation 4500, as subdivisions (k) through (s), respectively, and (3) add new subdivision (t) to Regulation 4500 defining “Special Taxes and Fees Division.”

2. Rule 100 Change to Regulation 4504, *Determination of Arm’s Length Transaction*

A Rule 100 change is proposed to replace the term “Excise Taxes Division” with the term “Special Taxes and Fees Division” in Regulation 4504 to update the name of the Board division responsible for administering the Licensing Act.

3. Rule 100 Change to Regulation 4507, *Request for Information and Records*

A Rule 100 change is proposed to replace the term “Excise Taxes Division” with the term “Special Taxes and Fees Division” in regulation 4507 to update the name of the Board division responsible for administering the Licensing Act.

4. Rule 100 Changes to Regulation 4508, *Appeal—Denial of License*

Rule 100 changes are proposed to replace the term “Excise Taxes Division” with the term “Special Taxes and Fees Division” in subdivisions (a) and (c) of Regulation 4508 to update the name of the Board division responsible for administering the Licensing Act.

5. Rule 100 Change to Regulation 4509, *Non-Arm’s Length Transfer—Sales*

A Rule 100 change is proposed to replace the term “Excise Taxes Division’s” with the term “Special Taxes and Fees Division’s” in Regulation 4509 to update the name of the Board division responsible for administering the Licensing Act.

6. Rule 100 Change to Regulation 4600, *Issuance and Contents of a Notice of Violation or Warning Notice*

A Rule 100 change is proposed to replace the term “Excise Taxes Division” with the term “Special Taxes and Fees Division” in regulation 4600 to update the name of the division responsible for administering the Licensing Act.

7. Rule 100 Changes to Regulation 4609, *Right to Appeal*

Rule 100 changes are proposed to replace the term “Excise Taxes Division” with the term “Special Taxes and Fees Division” in the five places where the term “Excise Tax Division” currently appears in Regulation 4609, subdivision (a), to update the name of the Board division responsible for administering the Licensing Act.

8. Rule 100 Changes to Regulation 4700, *Appeal—Excise Taxes Division*

Rule 100 changes are proposed to replace the term “Excise Taxes Division” with the term “Special Taxes and Fees Division” in the title of Regulation 4700, in the heading of Regulation 4700, subdivision (c), and in Regulation 4700, subdivisions (d), (e), (f), (g), and (h), and to replace the term “Excise Taxes Division’s” with the term “Special Taxes and Fees Division’s” in Regulation 4700, subdivision (h), to update the name of the Board division responsible for administering the Licensing Act.

The foregoing changes are appropriate for processing under Rule 100 because they are changes without regulatory effect and do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any California Code of Regulations provision. Furthermore, these changes are necessary to provide a correct statutory reference and to reflect the July 1, 2010, reorganization of the Property and Special Taxes Department.

PROPOSED AMENDMENTS

1. Amend Regulation 4500 (Definitions) to read as follows:

Regulation 4500. Definitions.

In addition to the definitions in Business and Professions Code section 22971, the following definitions shall apply to this chapter:

(a) "Act" means the Cigarette and Tobacco Products Licensing Act of 2003, set forth in division 8.6 of the Business and Professions Code.

(b) "Appeals Division staff" means an employee or employees of the State Board of Equalization assigned to the Appeals Division of the Legal Department.

(c) "Applicant" means a retailer, wholesaler, distributor, importer or manufacturer who has applied for a license pursuant to the Act, and, if the retailer, wholesaler, distributor, importer or manufacturer is not an individual, the term includes any person controlling such entity.

(d) "Arm's length transaction" means a sale in good faith and for valuable consideration that reflects the fair market value in the open market between two informed and willing parties, neither under any compulsion to participate in the transaction.

(e) "Board" means the Board Members of the State Board of Equalization meeting as a body or the agency created by article XIII, section 17, of the California Constitution, as the context indicates.

(f) "Board Proceedings Division staff" means an employee or employees of the State Board of Equalization assigned to the Board Proceedings Division of the Legal Department.

(g) "Business" means a business operated by a licensee and/or the property upon which or location at which such licensed business is operated.

(h) "Citation" means a civil notice of violation(s) or a criminal misdemeanor notice to appear.

(i) "Control" or "controlling" means control or controlling as defined in Business and Professions Code section 22971, subdivision (pd).

(j) "Conviction" means a judgment of guilt of a criminal offense.

~~(k) "Excise Taxes Division staff" means an employee or employees of the State Board of Equalization assigned to the Excise Taxes Division of the Property and Special Taxes Department.~~

~~(l)~~ (k) "Finding" or "Findings" means a determination that a violation of the Act has occurred. This can occur by default if no appeal is made from a Notice of Violation or Warning Notice, or by a final decision made pursuant to Regulations 4700, 4701, or 4702.

~~(m)~~ (l) "Fine" means any fine imposed by the Board pursuant to the Act.

(nm) "Investigations Division staff" means an employee or employees of the State Board of Equalization assigned to the Investigations Division of the Legal Department.

(on) "Licensee" means a licensee as defined in Business and Professions Code section 22971, subdivision (j).

(po) "License subject to a civil or criminal citation" means a license as to which a citation has been issued but no final determination of violation has yet been entered into the licensee's or unlicensed person's permanent record.

(qp) "Notice of Violation" means the document sent to a licensee or unlicensed person referring to the citation issued, the charged violation(s), the penalty or penalties to be imposed, and the licensee's or unlicensed person's appeal rights.

(rg) "Offense" means a criminal conviction of violations of the Act and/or civil findings of violations of the Act.

(sr) "Person" means a person as defined in Revenue and Taxation Code section 30010.

(ts) "Regulation" means a section of title 18 of the California Code of Regulations.

(t) "Special Taxes and Fees Division" means the Special Taxes and Fees Division of the State Board of Equalization's Property and Special Taxes Department.

(u) "Unlicensed Person" means any person not holding a valid license issued by the Board pursuant to the Act.

(v) "Warning Notice" means the document advising a licensee or unlicensed person that the stated violation(s) of the Act will be entered into the licensee's or unlicensed person's permanent record as a first offense and that future violations will result in civil penalties.

Note: Authority cited: Section 22971.2, Business and Professions Code. Reference: Sections 22970, 22971, 22974.5, 22978.7 and 22979.7, Business and Professions Code; and Section 30010, Revenue and Taxation Code.

2. Amend Regulation 4504 (Determination of Arm's Length Transaction) to read as follows:

Regulation 4504. Determination of Arm's Length Transaction.

The ~~Excise Taxes Division~~ Special Taxes and Fees Division shall determine whether the transfer of a business was pursuant to an arm's length transaction, utilizing the criteria set forth in Regulations 4505 and 4506.

Note: Authority cited: Section 22971.2, Business and Professions Code. Reference: Sections 22973.1, 22977.2 and 22979, Business and Professions Code.

3. Amend Regulation 4507 (Request for Information and Records) as follows:

Regulation 4507. Request for Information and Records.

When a business's license is suspended, revoked, or is subject to civil or criminal citation, then the parties to a proposed or completed transfer or sale of the business must, at the Board's request, provide all relevant information on the transfer or sale to the ~~Exeise Taxes Division~~Special Taxes and Fees Division, including, but not limited to, the purchase agreement, all escrow documents and proof of payment or tender of the purchase consideration.

Note: Authority cited: Section 22971.2, Business and Professions Code. Reference: Sections 22973.1, 22977.2 and 22979, Business and Professions Code.

4. Amend Regulation 4508 (Appeal—Denial of License) to read as follows:

Regulation 4508. Appeal—Denial of License.

(a) If the ~~Exeise Taxes Division~~Special Taxes and Fees Division determines that a new license should not be issued pursuant to Regulation 4503, then it shall notify the applicant of such determination and deny the application for issuance of a new license for the applicant's business. The applicant may petition for a redetermination within 30 days from the date notice of the denial is mailed or personally delivered to the applicant. The denial of the application shall become final if a petition for redetermination is not filed before the expiration of the 30-day period.

(b) Every petition for redetermination shall be in writing and shall state the specific grounds upon which the petition is founded.

(c) The Board shall reconsider the determination of the ~~Exeise Taxes Division~~Special Taxes and Fees Division pursuant to its administrative appeals process set forth in article 6 (commencing with Regulation 5260) of chapter 2 of division 2.1 of title 18 of the California Code of Regulations and shall grant the applicant an oral hearing if timely requested within 30 days of the date the Decision and Recommendation issued by the Appeals Division is mailed to the applicant. Any Board hearing will be governed by the rules set forth in Regulations 5270, 5271, 5522.4 through 5523.1, 5523.4 through 5523.7, 5541 through 5551, 5563, subdivisions (a) and (b), 5561 through 5563, 5571, 5572, and 5576.

(d) The order or decision of the Board upon a petition for redetermination becomes final 30 days after the date notice thereof is mailed to the applicant, except as provided in Regulation 5560, subdivision (b).

(e) Any notice required by this section shall be placed in a sealed envelope, with postage paid, addressed to the applicant at the applicant's last known address as it appears in the records of the Board. The giving of notice shall be deemed complete at the time of deposit of the notice at a United States Post Office, mailbox, sub-post office, substation, mail chute, or other facility regularly maintained or provided by the United States Postal Service, without extension of time for any reason. In lieu of mailing, notice may be served personally by delivery to the person to be served and service shall be deemed complete at the time of such delivery. Personal delivery to a

corporation may be made by delivery of a notice to any person designated to be served for the corporation with summons and complaint in a civil action, pursuant to the Code of Civil Procedure.

Note: Authority cited: Section 22971.2, Business and Professions Code. Reference: Sections 22973.1, 22977.2 and 22979, Business and Professions Code.

5. Amend Regulation 4509 (Non-Arm's Length Transfer—Sales) to read as follows:

Regulation 4509. Non-Arm's Length Transfer--Sales.

The ~~Excise Taxes Division's~~Special Taxes and Fees Division's determination that a licensee's transfer of a business with a suspended or revoked license was not at arm's length may establish grounds for an additional violation of the Act. The Investigations Division may issue a citation for a violation of Business and Professions Code section 22980.2, subdivision (c), if the business is found selling cigarettes or tobacco products without a license or after a notification of suspension or revocation of a license.

Note: Authority cited: Section 22971.2, Business and Professions Code. Reference: Sections 22973.1, 22977.2, 22979 and 22980.2, Business and Professions Code.

6. Amend Regulation 4600 (Issuance and Contents of a Notice of Violation or Warning Notice) to read as follows:

Regulation 4600. Issuance and Contents of a Notice of Violation or Warning Notice.

The Investigations Division shall forward a copy of a citation issued to a licensee or unlicensed person to the ~~Excise Taxes Division~~Special Taxes and Fees Division, which shall prepare and mail a Notice of Violation or Warning Notice to the cited licensee or unlicensed person.

Note: Authority cited: Section 22971.2, Business and Professions Code. Reference: Sections 22974.7, 22978.7 and 22979.7, Business and Professions Code.

7. Amend Regulation 4609 (Right to Appeal) to read as follows:

Regulation 4609. Right to Appeal.

(a) Every licensee or unlicensed person has the right to appeal any alleged violation of the Act, and may appeal a Warning Notice or Notice of Violation issued by the ~~Excise Taxes Division~~Special Taxes and Fees Division, as specified below:

(1) If the Notice of Violation contains a penalty of revocation and/or a fine of more than \$2,500, the Notice of Violation may be appealed as follows:

(A) The first appeal shall be to the ~~Excise Taxes Division~~Special Taxes and Fees Division;

(B) If the licensee or unlicensed person disagrees with the Notice of First Decision, as specified in Regulation 4700, subdivision (h), issued by the ~~Excise Taxes Division~~Special Taxes and Fees Division, the licensee or unlicensed person may make a second appeal to the Appeals Division; and

(C) If the licensee or unlicensed person disagrees with the Notice of Second Decision, as specified in Regulation 4701, subdivision (c), issued by the Appeals Division, the licensee or unlicensed person may make a third appeal to the Board for a final decision.

(2) If the Notice of Violation or Warning Notice does not contain a penalty of revocation or a fine of more than \$2,500, the Notice of Violation or Warning Notice may be appealed as follows:

(A) The first appeal shall be to the ~~Excise Taxes Division~~Special Taxes and Fees Division; and

(B) If the licensee or unlicensed person disagrees with the Notice of First Decision issued by the ~~Excise Taxes Division~~Special Taxes and Fees Division, the licensee or unlicensed person may make a second appeal to the Appeals Division for a final decision.

(b) If a timely appeal is made, a conference and/or hearing will be scheduled to allow the licensee or unlicensed person requesting an appeal an opportunity to contest the violation(s) and show cause why the penalties should not apply or should be reduced.

(c) Burden of Proof. The licensee or unlicensed person shall have the burden of proof as to the grounds for dismissal of any violations or for the reduction of penalties.

Note: Authority cited: Section 22971.2, Business and Professions Code. Reference: Sections 22974.7, 22978.7 and 22979.7, Business and Professions Code.

8. Amend Regulation 4700 (Appeal—Excise Taxes Division) to read as follows:

Regulation 4700. Appeal—~~Excise Taxes Division~~Special Taxes and Fees Division.

(a) Time for Filing. A written Request for Appeal, as defined in subdivision (c), below, must be filed within 10 days of the date the Warning Notice or Notice of Violation was mailed to or personally delivered to the licensee or unlicensed person.

(b) Failure to File a Timely Appeal. If a written Request for Appeal is not filed within the 10-day period, the licensee or unlicensed person shall be deemed to have waived his or her right to an appeal and the Warning Notice or Notice of Violation, and the penalty or penalties stated therein, shall become final.

(c) Request for an ~~Excise Taxes Division~~Special Taxes and Fees Division Appeal. The Request for Appeal shall state the specific grounds upon which the licensee or unlicensed person is contesting the Warning Notice or Notice of Violation and shall be accompanied by any and all documentation and written argument to be considered in support of the appeal. The Request for Appeal shall be signed by the licensee or unlicensed person or by an authorized representative.

(d) Notice of Conference. After receiving a timely Request for Appeal the ~~Exeise-Taxes Division~~Special Taxes and Fees Division will schedule a conference and send a Notice of Conference stating the date and time of the scheduled conference to the licensee or unlicensed person. The Notice of Conference shall be sent to the licensee or unlicensed person at least 15 days prior to the date of the scheduled conference.

(e) Conference. The conference is intended to be an informal, non-adversarial proceeding with a discussion of the relevant facts and applicable laws and regulations. Written statements made under penalty of perjury may be submitted, but subpoenas are not issued for conferences, nor is sworn testimony required. The conference will be conducted by telephone and shall not be recorded and/or transcribed by the ~~Exeise-Taxes Division~~Special Taxes and Fees Division. The conference may be recorded and/or transcribed by the licensee or unlicensed person, but only if the licensee or unlicensed person agrees to provide a copy of the recording or transcript to the ~~Exeise-Taxes Division~~Special Taxes and Fees Division.

(f) The ~~Exeise-Taxes Division~~Special Taxes and Fees Division may grant one request to reschedule or postpone a conference. If a request is granted, the conference shall be rescheduled or postponed so that it can be held within 15 days of the date the conference was scheduled to be held prior to the granting of the request, unless the Chief of the ~~Exeise-Taxes Division~~Special Taxes and Fees Division or his or her designee approves of a later date.

(g) During a conference, the ~~Exeise-Taxes Division~~Special Taxes and Fees Division may grant a request for additional time to submit additional evidence. If additional time is granted, the evidence shall be submitted to the ~~Exeise-Taxes Division~~Special Taxes and Fees Division no later than 7 days after the conference date.

(h) Decision. Following the conference, the ~~Exeise-Taxes Division~~Special Taxes and Fees Division shall issue a Notice of First Decision. The Notice of First Decision will set forth the ~~Exeise-Taxes Division's~~Special Taxes and Fees Division's decision, the applicable penalty or penalties, and the licensee's or unlicensed person's appeal rights.

(i) A licensee or unlicensed person who receives a Notice of First Decision may appeal the decision within 10 days of the date the Notice of First Decision was mailed or personally delivered to the licensee or unlicensed person by timely filing a Request for Appeals Conference, as specified in Regulation 4701, subdivision (a), with the Board Proceedings Division.

(j) Failure to File a Timely Appeal. If a Request for Appeals Conference is not filed within the 10-day period provided in subdivision (i), then the licensee or unlicensed person shall be deemed to have waived his or her right to an appeal and the Notice of First Decision, and the penalty or penalties stated therein shall become final.

Note: Authority cited: Section 22971.2, Business and Professions Code. Reference: Sections 22974.7, 22978.7 and 22979.7, Business and Professions Code.

CHANGE WITHOUT REGULATORY EFFECT UNDER
CALIFORNIA CODE OF REGULATIONS, TITLE 1, SECTION 100

Statement of Explanation

Title 18. Public Revenue
Regulation 3020, *Records*

A. Factual Basis

Chapter 8 of division 2 of title 18 of the California Code of Regulations (chapter 8) contains regulations that implement, interpret, or make specific provisions of the Hazardous Substances Tax Law (part 22 (commencing with section 43001) of division 2 of the Revenue and Taxation Code). California Code of Regulations, title 18, section (Regulation) 3020, *Records*, is contained in chapter 8 and generally specifies the types of records a taxpayer must maintain under the Hazardous Substances Tax Law.

Pursuant to Health and Safety Code section 105190, the State Board of Equalization (Board) administers a fee under the Hazardous Substances Tax Law that supports the occupational lead poisoning prevention program (Health and Safety Code section 105185 et seq.), and Regulation 3020, subdivision (b)(3)(A), requires taxpayers to maintain records of their correspondence with the agency responsible for managing the occupational lead poisoning prevention program. However, on July 1, 2007, the name of the agency responsible for managing the occupational lead poisoning prevention program was changed from the Department of Health Services to the California Department of Public Health. (See Health & Saf. Code, §§ 20 and 131051, subd. (a)(6)(S).) Accordingly, the Board hereby proposes to replace the term “Department of Health Services” with the term “California Department of Public Health” in Regulation 3020, subdivision (b)(3)(A), under California Code of Regulations, title 1, section (Rule) 100.

B. Proposed Amendment

Rule 100 Change to Regulation 3020, *Records*

A Rule 100 change is proposed to replace the term “Department of Health Services” in Regulation 3020, subdivision (b)(3)(A) with the term “California Department of Public Health” to update the name of the agency responsible for managing the occupational lead poisoning prevention program.

The foregoing change is appropriate for processing under Rule 100 because it is a change without regulatory effect and does not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any California Code of Regulations provision. Furthermore, this change is necessary to reflect the 2007 renaming of the agency responsible for managing the occupational lead poisoning prevention program.

PROPOSED AMENDMENT

Amend Regulation 3020 (Records) to read as follows:

Regulation 3020. Records.

(a) General. A taxpayer shall maintain and make available for examination on request by the board or its authorized representatives, records in the manner set forth at California Code of Regulations, Title 18, Section 4901.

(b) Specific Applications. In addition to the record keeping requirements set forth in subdivision (a), taxpayers shall comply with the following requirements.

(1) Hazardous Substance Tax. A taxpayer shall keep complete records, including but not limited to:

(A) Uniform Hazardous Waste Manifests.

(B) Transporter billings or invoices.

(C) Weight tickets.

(D) Waste profile analysis reports.

(2) Environmental Fee. A taxpayer shall keep complete records, including but not limited to:

(A) Payroll reports and all other documents listing employees, wages, and hours worked.

(B) Employment agreements or contracts.

(3) Occupational Lead Poisoning Prevention Fee. A taxpayer shall keep complete records, including but not limited to:

(A) Fee waiver requests and ~~Department of Health Services~~ California Department of Public Health responses.

(B) Payroll reports and all other documents listing employee names, wages paid, and hours worked.

Note: Authority cited: Section 43501, Revenue and Taxation Code. Reference: Section 43502, Revenue and Taxation Code.

CHANGE WITHOUT REGULATORY EFFECT UNDER CALIFORNIA CODE OF REGULATIONS, TITLE 1, SECTION 100

Statement of Explanation

Title 18. Public Revenue Regulation 3301, *Records*

A. Factual Basis

Chapter 8.3 of division 2 of title 18 of the California Code of Regulations (chapter 8.3) contains regulations that implement, interpret, or make specific the Integrated Waste Management Fee Law (part 23 (commencing with section 45001) of division 2 of the Revenue and Taxation Code). California Code of Regulations, title 18, section (Regulation) 3301, *Records*, is contained in chapter 8.3 and generally specifies the records that the State Board of Equalization (Board) requires that a feepayer maintain with respect to the integrated waste management fee.

The Board deposits specified fees collected under the Integrated Waste Management Fee Law into the Integrated Waste Management Account and, after appropriation by the Legislature, the fees may be used to fund the integrated waste management program provided for in division 30 of the Public Resources Code. (Pub. Resources Code, §§ 48001 and 48004.) In 2009, the agency responsible for managing the integrated waste management program was reorganized and renamed. Its name was changed from the California Integrated Waste Management Board to the Department of Resources Recycling and Recovery. (See Pub. Resources Code, § 40400, added by Stats. 2009, ch. 21 (Sen. Bill No. 63), effective January 1, 2010.) Accordingly, the Board proposes to replace the term “Integrated Waste Management Board” with the term “Department of Resources Recycling and Recovery” in Regulation 3301, subdivision (a), under California Code of Regulations, title 1, section (Rule) 100.

B. Proposed Amendment

Rule 100 Change to Regulation 33040, *Exemption from Fees*

A Rule 100 change is proposed to replace the term “Integrated Waste Management Board” with the term “Department of Resources Recycling and Recovery” in Regulation 3301, subdivision (a), to update the name of the agency responsible for managing the integrated waste management program.

The foregoing change is appropriate for processing under Rule 100 because it is a change without regulatory effect and does not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any California Code of Regulations provision. Furthermore, this change is necessary to update the name of the agency responsible for managing the integrated waste management program.

PROPOSED AMENDMENT

Amend Regulation 3301 (Records) to read as follows:

Regulation 3301. Records.

(a) General. A fee payer shall maintain and make available for examination on request by the board or its authorized representatives, records in the manner set forth at California Code of Regulations, Title 18, Section 4901. Notwithstanding the record keeping requirements of the ~~Integrated Waste Management Board~~ Department of Resources Recycling and Recovery set forth at California Code of Regulations, Title 14, Section 17414, for fee collection purpose the fee payer shall retain and preserve records for a period of not less than four years except as provided in Section 4901.

(b) Specific Applications. In addition to the record keeping requirements set forth in subdivision (a), fee payers shall comply with the following requirements. A fee payer shall keep complete records, including but not limited to:

- (1) Weight tickets or other source documents recording amounts of waste entering the landfill.
- (2) Documentation supporting the validity of volumetric conversion factors used as an alternative to actual weight to report waste tonnage.
- (3) Reports to other local and state agencies of waste tonnage disposed.

Note: Authority cited: Section 45851, Revenue and Taxation Code. Reference: Section 45852, Revenue and Taxation Code.

PROPOSED AMENDMENT

Amend Regulation 3301 (Records) to read as follows:

Regulation 3301. Records.

(a) General. A fee payer shall maintain and make available for examination on request by the board or its authorized representatives, records in the manner set forth at California Code of Regulations, Title 18, Section 4901. Notwithstanding the record keeping requirements of the ~~Integrated Waste Management Board~~Department of Resources Recycling and Recovery set forth at California Code of Regulations, Title 14, Section 17414, for fee collection purpose the fee payer shall retain and preserve records for a period of not less than four years except as provided in Section 4901.

(b) Specific Applications. In addition to the record keeping requirements set forth in subdivision (a), fee payers shall comply with the following requirements. A fee payer shall keep complete records, including but not limited to:

- (1) Weight tickets or other source documents recording amounts of waste entering the landfill.
- (2) Documentation supporting the validity of volumetric conversion factors used as an alternative to actual weight to report waste tonnage.
- (3) Reports to other local and state agencies of waste tonnage disposed.

Note: Authority cited: Section 45851, Revenue and Taxation Code. Reference: Section 45852, Revenue and Taxation Code.

2011 MINUTES OF THE STATE BOARD OF EQUALIZATION

Tuesday, August 23, 2011

Action: Upon motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board approved the redetermination as recommended by staff.

TAX PROGRAM NONAPPEARANCE MATTERS NOT SUBJECT TO CONTRIBUTION DISCLOSURE STATUTE

[I2] OFFERS-IN-COMPROMISE RECOMMENDATIONS

Action: Upon motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board approved the Offers in Compromise of *GZ, Inc.*; *Robyne L. Hinds*; *Danny McKernan*; and, *Stafford's Lighting Co., Inc.*; as recommended by staff.

CHIEF COUNSEL MATTERS

[J] RULEMAKING

J1 Section 100 Changes to Specified Special Tax and Fee Regulations

Action: Upon motion of Ms. Steel, seconded by Ms. Yee and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board authorized staff to complete Rule 100 changes to amend specified regulations pertaining to the Cigarette and Tobacco Products Licensing Act, the Hazardous Substances Tax Law, and the Integrated Waste Management Fee Law (Exhibit 8.2).

Ms. Yee directed staff to schedule, as a Chief Counsel Matters agenda item, a discussion of the community benefit test for the property tax welfare exemption with regard to nonprofit organizations engaged in charitable activities both within and outside California at the September Board meeting.

ADMINISTRATIVE SESSION

[N] ADMINISTRATIVE MATTERS, CONSENT

With respect to the Administrative Matters, Consent Agenda, upon a single motion of Ms. Yee, seconded by Ms. Steel and unanimously carried, Mr. Horton, Ms. Steel, Ms. Yee, Mr. Runner and Ms. Mandel voting yes, the Board made the following orders:

N1 Action: Adopt the following resolutions, extending its sincere and grateful appreciation to the retirees for their dedicated service to the State Board of Equalization and to the State of California, their congratulations on each retiree's well-earned retirement, and best wishes to them and their families for continued success, happiness and good health in the years to come (Exhibit 8.3).

Gerald F. Helman, Office Assistant (General), Out-of-State Sacramento Office

BEFORE THE CALIFORNIA STATE BOARD OF EQUALIZATION

450 N STREET

SACRAMENTO, CALIFORNIA

REPORTER'S TRANSCRIPT

AUGUST 23, 2011

Item J1

Specified Special Tax and Fee Regulations

Reported by: Juli Price Jackson

No. CSR 5214

P R E S E N T

For the Board
of Equalization:

Jerome E. Horton
Chairman

Michelle Steel
Vice-Chairwoman

Betty T. Yee
Member

George Runner
Member

Marcy Jo Mandel
Appearing for John
Chiang, State
Controller (per
Government Code
Section 7.9)

Diane G. Olson
Chief, Board
Proceedings Division

For the Department:

Bradley Heller
Legal Department

Carolee Johnstone
Tax Counsel

---oOo---

450 N STREET

SACRAMENTO, CALIFORNIA

AUGUST 23, 2011

---oOo---

MS. OLSON: Our next item is J1, Specified
Special Tax and Fee Regulations.

MR. HORTON: Okay. Is there a motion, Members?

MS. STEEL: So moved.

MR. HORTON: It's been moved by Ms. Steel
second by Ms. Yee.

MS. YEE: Yes.

MR. HORTON: Discussion, Members?

Hearing none, such will be the order.

Thank you very much.

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REPORTER'S CERTIFICATE

State of California)
) ss
County of Sacramento)

I, JULI PRICE JACKSON, Hearing Reporter for the California State Board of Equalization certify that on AUGUST 23, 2011 I recorded verbatim, in shorthand, to the best of my ability, the proceedings in the above-entitled hearing; that I transcribed the shorthand writing into typewriting; and that the preceding pages 1 through 3 constitute a complete and accurate transcription of the shorthand writing.

Dated: September 8, 2011



JULI PRICE JACKSON

Hearing Reporter